An Introduction To LEGAL BIBLIOGRAPHY for the Non-Professional Student

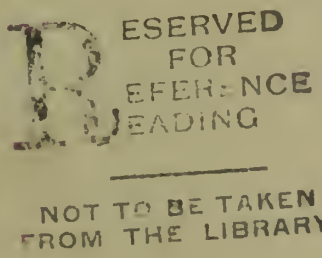
by

HARLAN D. BEEM

and

Foreword by

JACOB O. BACH



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FOREWORD

The Educational Research Bureau at Southern Illinois University was established at the specific request of area school practitioners. Its primary function has been consultative; surveys and limited appraisals of various school activities are among the better-known activities of the Bureau. In addition to service to local school districts this phase of the Bureau's work has upon occasion included cooperative efforts with various groups concerned with university problems or state policy; work with the School Problems Commissions, and the Higher Education Commissions, is typical. A few of these efforts are sufficiently rigorous to qualify as applied research, and an occasional project can be cautiously labelled as action research. A less publicized function of the Bureau is its role as a clearing house for research activities throughout the College of Education generally.

Throughout the past six years, activities of the Bureau on all of these levels have encountered the growing preoccupation of school boards in particular and lay people in general with legal technicalities. The schools are not alone in this respect. Contacts among people are increasing geometrically under the combined impacts of "the population explosion," on-the-spot news coverage, jet-travel, mechanical duplication, transmission, translation and even amplification of research technicalities and the demands of the underprivileged everywhere for a greater share in the world's satisfactions. The inevitable result, if chaos is to be averted, is more and more law and more and more necessity for the layman to know

enough law to safeguard his liberties. Courses in law for laymen are on the increase in virtually every vocational field.

This booklet, designed as an introductory manual for students not preparing for a career in law, is a by-product of several activities of the Bureau, all concerned with school boards. The tools for students were incidental to the development of materials of direct use to boards of education. The manual is to be used on an experimental basis in several schools and several disciplines. Beginning students in business law, government and school administration are expected to be among the trial users.

Two difficulties with such an undertaking deserve note. In the first place bibliographical material of this type becomes obsolete rapidly; there is scarcely time for material to be set in type without some revision in titles, volumes or authorship. Of greater importance is the decision of how much to include in a work of this type. It is certainly not necessary, nor desirable, that non-professionals attempt to master any professional research technique; it is desirable, if not imperative, that the informed layman recognize the vastness of the field, its complexity and, above all, the necessity for caution in embracing easy solutions to problems. These attitudes are not always engendered by over-dependence on hornbooks or case books. Apparently simple answers become less lulling after a few encounters with the distinctions, differentiations, reservations, exceptions, paradoxes, and plain discrepancies to be unearthed by a bit of research.

In addition to its use in pre-vocational classes, a students' manual of the more simple legal research techniques has use in opening to the general reader one of the richest fields of prose in the English language. The legal traditions of the English-speaking peoples, like their

language and their notions of democracy have spread throughout the world, are accepted and used quite often with little appreciation of their origins, limitations and complete meaning.

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CHAPTER I

INTRODUCTION

The beginner is rarely prepared for the immensity, complexity, or pervasiveness of legal literature; seldom, indeed is ready to accept the uncertainties, conflicts and injustices to be endured as law if a greater justice is to obtain. Often it is a shock for him to discover that the elimination of injustice in the world involves more than curative enactments.

The Meaning of Law: The word "law" is used to cover a variety of situations. An advanced student will readily identify diverse meanings of such phrases as "scientific law," "economic law," "social law," "mathematical law," "natural law," "common law," "unwritten law," "canon law," and "law of the sea." Sometimes law is a term applied to what is considered an inflexible rule of nature, i.e., "the law of gravity"; or to a consistent result of the behavior of men, i.e., "Gresham's Law." Although these in the minds of astute scientists are recognized as relative rather than absolute truths, the broadly accepted connotation is one of an established rule. So general is this understanding of the term "law," that the uninitiated are astonished to find disagreement as to its meaning in its restricted technical sense.

Were the law relatively stable and simple to understand, the legal profession would have disappeared long ago in favor of legislators and librarians, the one to make occasional refinements and the other to locate the appropriate cure for any evil. Some scholars have defined

law as the body of rules for human behavior enforced by sovereign authority, whatever political form that authority may carry. Another group explains law solely in terms of the history of the evolution of its precepts. A philosophical school of thought explains law in terms of pure reason and logic, the basic ideas stemming from Kant and Hegel. A modern school of thought sees law as a sociological product, the inevitable creation of men to meet the needs of their mode of living. The student will find something of value in each of the theories.

The learned of all ages have struggled to define the law and its precepts, yet all are agreed that whenever they do so with finality, progress will have ceased, and freedom be hopelessly lost. Men do not agree on the aims of society and prominent among the points of disagreement are the means to those ends, including what if any universality may be expressed in rules of conduct.

The rules by which men administer justice, which are generally considered to be the field of law, constantly vary under human pressures for stability and progress at the same time. We all want certainty; but we all want change. We all want freedom which of necessity means restraint upon our fellows, or the abridgment of freedom. We are plagued by curiosity into constant explorations; yet we fear the alien and the unfamiliar. We strive at once for increased knowledge and the secure and unquestioned tenure of accepted doctrine. Under these pressures, law has been at the same time a tool of conservation and the harbinger of innovation, the handmaiden of reaction and the signal for revolution.

An even stronger leavening force for change in rules designed to serve justice is the capacity of the human mind to pervert the most

carefully worded phrases to serve special ends. That any such set of written rules serve their purpose requires constant refinement. When the law becomes so efficient that no gangster may escape, it is time to check the safeguards which protect the innocent from the powerful.

Mankind has an equally limitless capacity to err. Solutions to problems most clamorously supported are not always those most calculated to produce anticipated results. Government by law, vast improvement over rule by men that it is, remains a human formulation, administered by people and fraught with the frailty that is mortal.

Suffice it, then, to recognize that a usable definition of law for the student must be to a degree an arbitrary one. Such a definition is posited by Price and Bitner as those written rules of conduct which are used by courts of justice.[1]

Primary and Secondary Sources: The primary sources of law are court decisions themselves and the results of the deliberations of constituent assemblies. Examples are the constitutions of the United States and the various states, treaties, statutes, judicial decisions, and early British and empire decisions. Contrasted are the secondary sources which digest and analyze these primary sources. Examples are textbooks, legal encyclopedias, periodicals, digests, "briefs," annotated reports, dictionaries and commentaries.

Ordinarily in research only primary sources are acceptable documentation, but because in some states the official legislative enactments or judicial findings were published by relatively unskilled

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[1]Miles O. Price and Harry Bitner, Effective Legal Research: A Practical Manual of Law Books and Their Use (New York: Prentice-Hall, Inc., 1953), p. 9.

workers with unstable tenure, some secondary sources such as the reports of established legal publishing houses are more dependable. Also primary documents are often inaccessible and rare. For this reason, it is customary in citing court reports to list two or more sources which will give the decision in full. Moreover, what the law may be at any one given moment depends upon the cogency and weight of the arguments on both sides and on alternative solutions; for this reason, it is permissible to cite secondary sources of authority and relatively less weighty sources such as an opinion of an attorney general or scholar where such citations are appropriate. Of course, these should not be used as authority for a quotation from a primary source.

In many instances the niceties between primary and secondary authority are overshadowed by more important considerations: (1) which version of the law is the weightier evidence and (2) which citation will be most convenient for readers to follow? As a student's experience with legal citation broadens, these two questions may come to be the deciding ones in practical situations.

For the nonprofessional, strict insistence upon the use of primary data may be an expensive affectation if it costs him precious research time. Modern learning embraces so vast an area that all of us must rely upon secondary evidence at some point. In fact one can be truly expert in only a limited area. It is as essential to learn when to rely on the expert as it is to learn to differentiate primary data from opinion-laden secondary sources.

Hierarchy of law: Ordinarily there is one system of law in a country. The United States, however, is a federation, the federal

government having only those powers granted by the Constitution or inferred by it. Thus we have two separate orders of law, state and federal. Where the federal government has jurisdiction, federal law takes precedence over state law.

Federal law is divided into four types, treaties and international agreements, constitution, enactments of Congress, and administrative acts. For most purposes the Constitution is the highest ranking authority; approved acts of Congress and valid treaties have about equal status with conflicts resolved by date of passage, and administrative law is the fourth order in rank. Technically, however, treaties rank as the highest law of the land according to the Constitution.[1]

State law has a similar hierarchy of authority. Interstate compacts are looked upon as on a par with federal law, and take precedence over other state enactments. State constitutions, legislative enactments, and administrative decisions of state-wide nature are accorded rank in that order. Legislative gaps are filled by the common law; the traditions of each state have an independent existence. Ranking below the above forms of law are municipal ordinances, most of which operate within a framework established by state constitutional and legislative action.

Hierarchy of courts: The rank in precedence between federal and state courts follows the same order as the law which they interpret. In general, although using a variety of names, courts of various jurisdictions are somewhat similar, with a court of original jurisdiction above which is an appeal court and a supreme court. Various states have

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[1] Edye and Another vs. Robertson, 112 U. S. 380, 5 S Ct 247, 28 L Ed 789 (1884).

a variety of local courts which may or may not be an integral part of the general state judicial system. These latter are survivors of pioneer days when court circuits were not completed fast enough to take care of minor matters. Also both state and federal governments have some specialized courts devoted to specific matters, such as maritime courts and tax courts. Most states provide a number of special branches for courts in larger cities. In some states law courts and equity courts are separated completely and in others criminal and civil courts are so divided.

The Ingredients of American Law: As the vehicles by which disputes are resolved, rules of law find application in every field where human disagreement can arise. Ideas like other organic phenomena have their roots where they have had usefulness. Law reaches into all cultures, all segments of society, throughout all recorded time.

Law is one of the oldest of the learned specialties. Combinations of soothsayers, law-givers, medicine men, and tribal chieftans have been found in every authenticated account of primitive culture. Some of the oldest known examples of writings and carvings of men are rules of conduct or codes of law. Generally they were of a semi-religious nature; in most cultures to this day religious sanctions are more efficient controllers of conduct than the enactments of constituent assemblies or the decrees of rulers, however absolute. Law, government, medicine, and religion are inextricably interwoven throughout the story of communal living. One of the requisites of a stable culture is a well-developed system of written law. American law like the American people bespeaks the melting pot.

Americans, with their child-like faith in a magic cure for social evils by legislation, are prone to ignore the fact that most law is simply the result of years of custom. The common law is overlooked altogether. It consists of the accumulated decisions of the courts of a particular jurisdiction tracing from the present directly back through the original thirteen states to the English common law and statutes in existence at the time of the Revolutionary War. In all probability the common law arose in somewhat the same manner and for the same reason that schoolroom rules develop. Where a dispute between individuals is settled in one manner, a like settlement is expected where similar disputes arise later. Reasonably consistent treatment is essential for good order in a schoolroom and for a law-abiding citizenry. Hence the practice of writing down, preserving and following established custom in settling disputes which traces back to antiquity among the English-speaking peoples.

To this body of doctrine has been added the enactments of various constituent assemblies since the battle of Lewes in 1265 permanently established Parliament as an estate of the realm. Interwoven are decrees and writs from royalty, pronouncements of church authorities, customs of barter and trade, practices of the frontier, and remnants of ancient Greek, Roman and Hebrew codes.

Law as we have defined it consists of the common law, constitutions both federal and state, the appropriate enactments of constituent legislative bodies, the decisions of certain administrative or regulatory bodies and the valid treaties of the United States. In addition, there is another area of study very recently added to the literature as a branch of law, that of interstate compacts. These are somewhat analogous to treaties between nations.

Technically, constitutions and most treaties are in reality enacted law in that constituent bodies create them. They are of such nature, however, that customarily they are treated as separate branches of the law proper. Also, technically, the exact law is, under the Anglo-Saxon tradition, what the courts have defined it to be from the traditions of the past and the written constitutions, treaties, and decrees; for this reason some purists confine introductory courses to the reading of court cases. For the purposes of this manual, we will treat the following as part of the law proper: court cases, constitutions, legislative enactments, valid administrative decisions, and treaties. In addition there is an abundant literature about the law, which is often more valuable to the student than expressions of the law itself.

The Need for Research Tools: In view of the tremendous number of enactments of Parliament, Congress, state legislatures, county governing bodies, and municipal authorities and the even greater volume of decisions rendered by the courts of various states, federal government, international and foreign courts, all of which are published in chronological order, some system of indexing is essential in order to find the decisions or enactments which have bearing upon a particular legal problem. Countless compilations, encyclopedias, textbooks, treatises, law dictionaries, legal periodicals, commentaries, annotated reports, digests and indices are needed to provide access to the primary sources, the constituent laws and decisions themselves. Many of the original formulations of law are not available to students, or require highly technical skill to locate and evaluate. Some are virtually lost. The remainder is formidable. It is estimated that one publishing firm alone

in this country had printed so many volumes of court decisions by 1952 that a reader averaging 100 pages an hour, eight hours a day, six days a week for 50 weeks in the year would need 49 years to read them all.[1] It is not improbable that he would be farther behind when he finished than he was when he began.

When confronted with a practical legal problem, the sophisticated researcher and the student alike will commonly start with a general statement of the law for the circumstances under consideration as found in an authoritative textbook or reference work and from the citations therein proceed to an examination of the statutes and decisions refining those general principles in circumstances as identical to those in question as possible. That is, the sophisticated student ordinarily begins a research problem by examining secondary sources. For the beginner it is helpful to have some acquaintance with the primary sources of law first in order to understand the secondary sources. The footnotes and logic of the secondary sources are sometimes not intelligible without some acquaintance with the underlying origins. Consequently this manual for the beginner will start with an overview of the primary sources of law. The student should bear in mind that as his skill increases he will learn new and better ways to locate material.

Chapters two, three and four will be devoted to the law proper in the form of court decisions, statutes, constitutions, treaties, and administrative law in that order. The rest of the manual will be devoted to the tools much more likely to be used by the beginner in practical situations; the encyclopedias, digests, indices, commentaries, and periodicals. One chapter will be devoted to citations and matters

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[1] Noel T. Dowling, Edwin W. Patterson, and Richard R. B. Powell, Materials for Legal Method, 2nd Ed., Edited by Harry Wilmer Jones. (Brooklyn, N.Y.: The Foundation Press, 1952), p. 254.

of style and another to foreign law. As a general rule pertinent material will be relegated to those sections; however, some acquaintance with systems of footnoting will be needed early in order to find some of the material. Where useful, then, some explanations of citations will be inserted out of order; for example, the common abbreviation for a well-known set of books will be introduced parenthetically at the same time the books are discussed.

Since the shelf-order of legal libraries varies greatly, discussion of cataloging practices has been consolidated with that of non-legal research, where greater uniformity pertains. Often legal books will be shelved in a special collection in order of volume of usage, as dictated by the special purposes of the particular library. In a general library such collections are concentrated in the social science section, with a considerable dispersion according to related fields, such as education, medicine, history, and government.

Definitions of some of the more common legal terms will make practice material; hence . they are not defined in the context. In addition the appendices will include useful reference books not primarily of concern to this manual and a brief bibliography of further references.

Some Precautions: A book designed to tell the student how to find the law needs to say at the outset that it cannot, in fact, do exactly that. Who presumes to know precisely how proven rules of the past may apply in present altered circumstances? Who indeed can formulate the rules so that the meaning will be the same to all men? What rules can be agreed upon as leading to justice when we cannot first agree what it is we seek? Or what it should be? Or can be? Such

questions lead to a vast range of philosophy beyond the scope of a simple manual.

Furthermore the successful professional in the field of law has many attributes and skills beyond mere acquaintance with the bibliography. The wise amateur approaches the lore of any profession with humility. Yet acquaintance with the rudiments of law becomes increasingly a necessity to daily living. As more and more people crowd this planet we cannot avoid encroaching more upon the sphere of freedom of an individual. This means more law and greater obligation on each to be aware of the limitations imposed. The following suggest themselves as simple guideposts for the nonprofessional as he views the growing mass of law:

1. Know enough law to perform the everyday duties of a calling;

2. Know enough law to seek professional counsel regarding problems beyond that category;

3. Know enough law to bear the responsibility for the development of greater justice which every citizen of a self-governing people assumes; and

4. Know where to get and how to use special competence in the many technical problems a self-directing citizenry must assume.

The following pages, then are explicitly addressed to the nonprofessional as an introduction to a fascinating literature; as such they contain of necessity over-simplifications, enormous omissions and the unconscious bias of the novice.

CHAPTER II

THE LAW PROPER

Books of Law

The actual decisions of courts are recorded and printed as they are rendered. The first copies, by cases, are called slip decisions. The paper volumes of all of the decisions of one term of court are called advance sheets. From time to time printed volumes of those decisions are issued. These are known as books of law, since they encompass most of the substantive law. They are also called reporters or simply reports.

Official and Unofficial Reports: Under modern practice most courts of appellate rank issue official bound volumes of decisions. Many of the original decisions of early courts have been lost and the records come to us from unofficial compilations. Furthermore many of the old official versions are long since out of print. For such references unofficial reports are commonly used. Almost all of the English, Dominion, and United States official editions of court reports are paralleled by unofficial editions. In order that the student may encounter actual decisions as early as possible, some understanding of methods of organizing and citing such reports is in order.

It is customary to cite both the official and unofficial versions of these reports or reporters, as they are frequently called. Accepted procedure is to use abbreviations in citations and to include in parentheses the date of the case, thus placing it in time more accurately

than the volume citation would indicate. The caption of the case (Jones v. Brown) is followed by the volume number, abbreviation of the reporting series, and page number. The captions, whether in the text or a footnote, are underlined in typed manuscript and appear in printed matter in italics. Where it is desirable to include the caption in the text, it is not customary to repeat it in the footnote; this leaves the numbers and letters of the citation alone in the latter reference. Standard legal reference books carry an explanation of the abbreviations in the front of the book or in the appendix. Likewise, it is customary in legal publications having a relatively small number of cases, to include a table of cases. This is not practicable in some legal works, and is optional in formal writing.

An example of an Illinois citation as it would appear in a footnote is as follows:

> Krebs v. Board of Trustees of Teacher Retirement System, 410 Ill. 435, 102 N.E.2d 321, 27 A.L.R.2d 1434 (1952)

The above is read, of course, as "Krebs versus the Board of Trustees of the Teacher Retirement System, Volume 410 of the Illinois Reports page 435; Volume 102 of the North Eastern Reporter, Second Series page 321; and Volume 27 of the American Law Reports, Second Series page 1434." It refers to a complete reproduction of an Illinois Supreme Court ruling reported in the volumes cited. If the name of the case had appeared in the text, then the footnote would have consisted of the entry "410 Ill. 435, 102 N.E. 2d 321, 27 A.L.R.2d 1434 (1952)."

The official reports published by each state, and the United States Supreme Court Reports are cited in the manner given except that certain early reports are known by the name of the publisher or offical

record-keeper. The first seven United States Reports are cited by the name of the publisher as follows:

(1)	Dallas[1] 1-4	(1790-1800).	United States Reports	1-4
(2)	Cranch 1-9	(1801-1815).	United States Reports	5-13
(3)	Wheaton 1-12	(1816-1827).	United States Reports	14-25
(4)	Peters 1-16	(1828-1842).	United States Reports	26-41
(5)	Howard 1-24	(1843-1860).	United States Reports	42-65
(6)	Black 1-23	(1861-1862).	United States Reports	66-67
(7)	Wallace 1-23	(1863-1874).	United States Reports	68-90

The additional federal Supreme Court decisions are known simply as United States Reports, and are so cited using abbreviations, as, "91 U.S. 100."

The unofficial national reports are two: The United States Supreme Court Reporter (S.Ct)[2] begins in 1882 with Volume 106 of the United States Reports and continues to date; and the United States Supreme Court Reports, Lawyer's Edition (L.Ed)[3] containing all Supreme Court Decisions to date. The reports of the United States District Courts, United States Courts of Appeal and the former United States Circuit Courts have not been published in an official form except as slip decisions. Prior to 1880 there was no continuous successful line of private publications. Most of those early decisions and all since 1880 have been published as part of the National Reporter System.

Each state publishes the reports of its supreme court; a few states, including Illinois, publish reports of intermediate courts, i.e., Illinois Appellate Reports. Early state reports are often cited by the

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[1]Although traditionally referred to as the first volume in the original Reports of the United States Supreme Court, "1 Dallas" is composed entirely of Pennsylvania cases. The United States Supreme Court cases actually began with 2 Dallas 401 (1791).

[2]St. Paul, Minnesota: The West Publishing Company, 1882 -

[3]San Francisco, California and Rochester, New York: Bancroft-Whitney and The Lawyers Cooperative Publishing Companies, 1878 to date.

name of the publisher. The reports of courts of original jurisdictions are seldom published in bound form. All of the published reports, both federal and state, are duplicated in the National Reporter System[1] of the West Publishing Company. In addition, certain annotated casebooks and related volumes publish selected cases in their entirety. These unofficial publications have been so long established that citations from them are received as though they were citations from the official reports. It is customary, however, to cite an official and unofficial source.

The National Reporter System: The West Publishing Company releases thirteen sets of reporters, embracing published reports from all of the states, reports of all of the federal courts, a special volume to keep decisions on federal rules and procedures up-to-date and a supplement each for federal reports and New York State reports.

The sets of Reporters and the coverage of each are listed below:

The Supreme Court Reporter covers United States Supreme Court decisions since October, 1882.

The Federal Reporter connects with Federal Cases and includes reports of all United States courts since 1880, except those of the Supreme Court and the reports included in the Federal Supplement. Currently it includes reports of the following United States courts: Appeals, Customs and Patent Appeals, and Emergency Court Appeals. The Federal Supplement connects with volume 60 of the Federal Reporter, Second Series, and reports United States District Court decisions and the Court of Claims since 1932.

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[1]St. Paul, Minnesota: The West Publishing Company, 1882 -

Federal Rules Decisions reports any decisions of the district courts not published in the Supplement involving federal rules of procedure, civil since 1939, criminal since 1946. Federal Cases is also a part of this system. Prior to 1880 there were many different Reporters of various federal courts; but some volumes soon disappeared from the market. The need for unification became so acute that an attempt to collect only a few of the more obscure reports grew into a complete collection of all available lower federal court decisions. They are cited by number (14,110 for example) and date, as they are not organized chronologically.

Eight sets of books encompass the reports from the high courts of the various states. The several reports and their current coverage is as follows:

Atlantic Reporter:

Supreme Court Decisions (from 1885)	Intermediate Court Reports
Connecticut	New Jersey
Delaware	Pennsylvania
Maine	
Maryland	Municipal Court of Appeals
New Hampshire	District of Columbia
New Jersey	
Pennsylvania	
Rhode Island	
Vermont	

North Eastern Reporter:

Supreme Court Decisions (from 1885)	Appellate Court Decisions
Illinois	Illinois
Indiana	Indiana
Massachusetts	Ohio
New York	
Ohio	

North Western Reporter

Supreme Court Decisions

- Dakota Territory
- North Dakota
- South Dakota
- Iowa
- Michigan
- Minnesota
- Nebraska
- Wisconsin

Nebraska Commissioners' Decisions

Pacific Reporter

Supreme Court Decisions (from 1883)

- Arizona
- California
- Colorado
- Idaho
- Kansas
- Montana
- Nevada
- New Mexico
- Oklahoma
- Oregon
- Utah
- Washington
- Wyoming

Territorial Report

- Washington

Appellate Court Decisions

- California
- Colorado
- Kansas
- Oklahoma

South Eastern Reporter

Supreme Court Decisions (from 1887)

- Alabama
- Florida
- Louisiana
- Mississippi

Appellate Court Decisions

- Alabama
- Louisiana

South Western Reporter

Supreme Court Decisions (from 1886)

- Indian Territory
- Arkansas
- Kentucky
- Missouri
- Tennessee
- Texas

Appellate Court Decisions

- Missouri
- Tennessee
- Texas

New York Supplement

New York Court of Appeals (from 1847)	All lower courts of record (from 1888)

California Reports

California

New editions of early reports such as State Cases (or English Reports-Full Reprints) will seldom correspond in type, margins and spacing to early editions; for this reason, pages do not match. In order to make it possible to go from one edition to the other and especially to check citations in the original against available reprints, publishers use a device called "star paging." The new edition is paged as the lines fall in the reprint but the start of each new page in the original is marked by a starred and bracketed insertion in the text, thus denoting the original pagination at the point immediately before the word with which each page began.

The National Reporter System is keyed to the American Digest Series and the Corpus Juris series of encyclopedias. Some of the features of the Reporters system are as follows:

1. A table of cases for each volume published, together with special volumes carrying cumulative tables.
2. Tables and lists of rules and procedures in federal courts.
3. Tables of words and phrases defined which are keyed to Digest tables.
4. The key number system. All of the cases reported in any volume published by the company will be numbered similarly to cases on the same issues in any other volume. Each headnote of each case is given a number corresponding to the outline in the general classification scheme.

The Annotated Report System: The vast majority of court decisions have to do with the weight and character of particular evidence of a local nature and establish no new precedents. There have

been several attempts to simplify legal libraries by selecting a few cases thought to have unusual importance, discussing those cases in detail with summaries of the briefs of the opposing counsel, evaluations and commentaries on important points of the cases, and other annotations. The best known of these are the American Law Reports[1] (ALR, 1919-1948, 175 volumes, ALR 2d since 1948). These are a merger of two earlier systems which are themselves compilations and mergers of prior annotated selected cases.[2] There is a line of British Court Decisions paralleling this complete series and cross citations make them usable. American Jurisprudence and Ruling Case Law belong to the same publishing tradition. In addition, the United States Supreme Court Reports, Lawyers Edition (Cite L.Ed.) although not a selective reporter is definitely part of this general legal library system.

This series has the advantage of being less bulky than the more comprehensive bibliographical tools and combines some of the features of a digest and a reporter. The cases not reported are cited in the

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[1]Rochester, New York: Lawyers' Cooperative Publishing Company; San Francisco, California: Bancroft-Whitney Publishing Company.

[2]Included are the Trinity Series, made up of the American Decisions, San Francisco, California: The A. L. Bancroft Company, 1878-1918 (Am. Dec.; 1760-1869, 100 volumes), American Reports, Albany, New York: John D. Parsons (Am. Rep.; 1870-1887, 60 volumes), American State Reports, San Francisco: A. L. Bancroft Company (Am. St. Rep.; 1887-1911, 140 volumes), all of which were merged with American and English Annotated Cases, Long Island, New York: Thompson and Company (Ann. Cas.; 1906-1911, 21 volumes) to form the American Annotated Cases, San Francisco, California: Bancroft-Whitney Company (Ann. Cas.; 1912A etc.; 1912-1918, 32 volumes) which was again merged with the Lawyers Reports Annotated, Third Series, Rochester, New York: Lawyers Cooperative Publishing Company (LRA; 1915A etc.; 1915-1918, 24 volumes) a revision of earlier editions of the Lawyers Reports Annotated, Rochester, New York: Lawyers Cooperative Publishing Company (LRA; 1888-1905, 70 volumes), and Lawyers Reports Annotated, New Series, Rochester, New York: Lawyers Cooperative Publishing Company (LRANS; 1906-1914, 52 volumes).

footnotes; and lines of authority are analyzed, classified, and reconciled on both sides of various points of law. In addition, the annotations contain statements of general legal rules, reasons for rules, applications of rules to specific sets of facts, definitions, distinctions between situations and commentaries. The briefs of counsel on both sides of the case reported are summarized following the headnotes; the reasoning on both sides of the issue is thus available as well as commentaries upon that reasoning by the court and by the editors. Also on the latest cases a summary of each case reported is inserted between the headnotes and the briefs of counsel.

To locate material in the American Law Reports two methods are commonly used, the descriptive word method and the legal analysis method, both of which are quite similar to the devices employed in other legal systems. The Word Index to Annotations consists of four permanent volumes covering ALR 1-175, one permanent volume covering ALR 2d, 1-50, and at present bound volumes covering additional ALR 2d volumes and annual pamphlets, accumulating material currently. The word indices are elaborately cross-referenced so that a variety of clues should lead the searcher to the citations in ALR and ALR 2d where the issues sought are discussed. Data obtained from the cases and annotations cited should then be checked with the paper-bound supplements for very recent decisions.

The legal analysis method starts with the principle of law involved. Search is started through the ALR Digest consisting of twelve volumes covering ALR 1-175, two permanent volumes covering the second series and pamphlets issued with each new ALR 2d volume adding material of the current year. The Digests use outlines with the familiar device of breaking a major division into classification topics, subdividing

into a smaller number of subtopics, again in subdivisions, and finally into sections. By following the outline from the skeleton down to the detailed outline which may eventually subdivide sections into decimal parts one can locate the fine point he wishes. These, again, refer to the actual pages in the annotated report. The procedure is then the same as with the descriptive word method.

Occasionally a method of locating data by means of a table of cases provides a third avenue to the exact point desired. At the end of each digest unit there is a table of cases. If one case is known even by the title in reverse it can be traced through the table of cases to the ALR citations and then through the annotations. Each of the lengthier ALR 2d annotations is preceded by its own small index alphabetically arranged by key fact words to give immediate guidance to specific points or propositions within the discussion. That is, the text for a particular issue is also outlined and indexed so that any fine point can be isolated quickly.

The New Supplemental Service for ALR 2d Annotations and the ALR Blue Book of Supplemental Decisions consist of three permanent volumes and a cumulative volume changed annually, to bring the respective sets of books up-to-date with later cases. They are now considered an integral part of the established sets. They add new material pertinent to the issues previously established under the indicated headings; classification follows the pattern established in the basic books. Arrangement within each annotation is by jurisdiction. A general discussion will bring the original annotation to date and the notes will then give the minor difference in the rule or principle by states.

In using the ALR series, the student is cautioned to check a given annotation not only with the Blue Books and supplemental series,

but also citations similarly numbered in the Blue Book under the last supplemental note "99 ALR 1288." Under this heading are listed cases reported too late for complete classification.

Local Annotators are published to supplement the ALR series with additional cases on each topic in the series. For example, The Illinois Annotator[1] is a two-volume work giving additional Illinois citations on each topic treated in ALR. A pocket part keeps it up-to-date.

These books may be used as additional sources of cases without the ALR volumes. By using the ALR citations in American Jurisprudence giving ALR volumes and topic numbers as guides one may locate state citations, as the state volumes are organized in order of volume and page in the parent reference.

Understanding Legal Literature

Legal literature exists largely because human beings have a capacity for misunderstanding one another rivaled only by their capacity to extract other secrets of the universe. Included within that capacity is an apparently limitless ingenuity at finding novel meanings in the most carefully phrased pronouncements of legal precepts. The plainest axioms must be constantly rephrased lest they be whittled away by exceptions and differentiations. The more learned the jurist, the more he can point out paradoxes and frailties in the law. It is to be expected that the beginning student should find much to confuse and bewilder in first encounters with legal literature. Only a very brief treatment of the problems of reading legal literature can be given in this handbook.

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[1]San Francisco, California and Rochester, New York: Bancroft-Whitney and Lawyer's Cooperative Publishing Company, 2 vol., 1954.

The Importance of Procedure: Perhaps one of the most important understandings to the beginning student is the role of procedure in legal processes. At the risk of over-simplification, common law in its early development can illustrate the importance of procedure. In ancient Britain there was an understanding that on certain days when meetings of local freemen were desirable to plan cooperative protection against marauding Norsemen, feuding neighbors would call a temporary halt in the "feud." This custom grew into the "King's Peace," a truce under the king's guarantee. Failure to keep it offended the king as well as the rival clan. Fines first started as extra tribute for disturbing the peace of the king. Such special days when the overlord or his representatives enforced a cessation of hostilities gradually grew under the feudal system to embrace Sundays, special holidays, certain places and finally came to be in actuality the conditions under which a feud could be pursued. Thus a court trial is something of a successor to trial by combat and is not unlike a battle between litigants, each with his own champion or attorney, presided over by an impartial representative of the sovereign and often adjudged by a panel of the contestant's peers. As in a trial by combat, once a choice of weapons has been made there is often no turning back; a litigant is often estopped from certain allegations or certain defenses, once he has assumed an attitude inconsistent with them. Likewise one who has available one remedy may not employ another which is reserved for special occasions.

An action at law can be divided into six stages:

1. The process of getting a defendant into court,
2. the formal contentions of both parties in order to arrive at an issue,
3. the trial,

4. proceedings after the verdict,

5. the judgment, and

6. the execution of judgment.

The seventh stage, when it exists, is the process of appeal or review. These steps, now controlled by legislative enactments, have a long history of development.

The first phase, known as the Mesne process, consists of serving the defendant with a notice of complaint or a summons to appear either in person or by counsel. It is necessary as part of this step to show that the court has jurisdiction in the matter. The second step, that of pleading, consists of a series of actions originally oral, the first the tale or declaration or count on the part of the plaintiff and the answer by defendant's counsel which sets forth his defense (plea) and these continue until a point of complete disagreement is reached and the issue is then before the court. These exchanges of claims and counter-claims go under a variety of technical names such as "rejoinder," "surrejoinder," "rebutter," "surrebutter," "plea in abatement," "confession and avoidance," "traverse," and "demurrer." A demurrer challenges the sufficiency of the last papers presented by the opponent; a traverse denies some essential part, a confession and avoidance admits part and presents an excuse for the occurence. Once an issue is clearly drawn the trial begins. It again follows a highly developed set of rules designed to insure an unbiassed jury and unprejudiced evidence. At the conclusion or under certain technicalities during the proceedings, either side might make prayers or motions for action. The judge rules upon matters of law and the admissibility of evidence and the jury, when there is one, evaluates the quality of the proof presented by each side and renders a verdict. Only

the original writ or summons, the pleadings, the testimony, the verdict, and the judgment are entered in the record. As early as the reign of Edward the First a practice grew up of allowing an attorney who wished, to file a "bill of exceptions," pending an appeal on the grounds that some of the court's rulings had been erroneous.

After the verdict motions such as for a new trial, a stay of judgment, a judgment notwithstanding the verdict, and the like are entertained. Following the disposal of the motions judgment is entered. Nowadays it may be on a contingent basis (interlocutory), or final. The execution originally followed immediately, and included the assessment of fines for false complaints or the expenses of the plaintiff when his cause was found to be just. The seventh step that of appeal under the common law was by order of a higher court requiring a transcript of the record for review and allowing the parties a certain time to procure the certificates of record and file claims or counter-claims alleging or denying error. Modern practice has been modified by statutes but this broad outline persists and many of the terms are retained.

Actions may be at law or in equity. Court actions at law divide into criminal actions and civil actions. Criminal actions are attempts of the state to punish citizens for wrongful deeds; civil suits are attempts of private citizens to recover for damages attributed to the wrongful acts of others.

Broadly speaking, the field of equity is an attempt by courts to mete justice or at least to rectify in part an unjust situation where a clear-cut remedy is not available at law.

Equity: Most of the rules of equity derive from early church courts, although its common law traditions and language are more easily

understood again in terms of the actions of early British kings. Almost any rule can be cleverly used by the unscrupulous to work injustice. This was often true in the early days when the king's courts were rather rigidly held to traditional rulings to prevent the arbitrary exercise of power. Sometimes these precedents worked individual hardships. As the fountainhead of justice the king himself could issue a decree, written order, or writ correcting evils where the courts lacked jurisdiction or the workings of the law clearly created injustice. Such acts were taken through the king's chancelor. These included commands ordering people to perform certain acts or to desist in certain actions when an immediate remedy was necessary to prevent damage or hardship pending the time when the courts could properly try the issue. When these actions became numerous enough to require special courts, they were the chancelor's courts, or chancery courts, as they are sometimes called to this day. To this day some jurisdictions have separate courts for equity cases, but in most states the same courts preside but follow different procedure. Originally chancery cases were tried on the basis of depositions or sworn testimony and the appearance of the defendant consisted of somewhat more restricted pleadings. The original complaint was called an "English Bill" testifying to its informality and contrasted to the Latin language of formal law proceedings.

Interpreting Court Decisions: The recorded decision of a court contains a number of items. Some records preserve in the bound volumes more materials than others. Following is a list of such items including some not found in all reports:

Docket number
Parties litigant
Date of the decision

Catch words
Headnotes
Preparatory statement
Names of opposing counsel
Summary of briefs
Statement of the case
Opinion of the court
Dicta
Decision of the case
Judgment
Concurring justices
Further opinions
Dissenting opinions
Justices dissenting

Sometimes listed as a distinct element are dicta, which are pronouncements of the court beyond what is absolutely necessary for the case at hand, and which give clues to prospective decisions in related cases. These statements in a classical list are to be found immediately following the opinion of the court; but a more realistic view will discover such statements scattered throughout the report of the case. By "catch words" are meant the titles, subtitles, or words and phrases under which the case is likely to be classified in such legal literature as digests, encyclopedias, textbooks, or annotated references of any sort. These words, the headnotes and the summary of the briefs of both sides may or may not be found in various permanent volumes of court decisions. Generally they are all added by the editors of the recording volumes. Where they are actually inserted by the court itself, the fact will be noted in the report, i.e., "syllabi by the court," or "headnotes by the court." The preparatory statement will summarize the complaint, pleadings, and other formal proceedings so that the reader may understand exactly how the issue was joined and what was specifically before the court. The statement of the case will give the agreed facts and history to the disputed point.

The headnotes, or syllabi, provide a quick and generally dependable statement of the findings of the court. Unless they were actually written by the court, however, they may not be quoted as findings of the court.

The first caution to the beginning student in reading cases is that he be wary of assuming that the headnotes or other summary statements of the court finding have universal application or do, in actual fact, represent exactly what the court found. One must first arrive at a judgment as to the extent to which those findings report generalizations acceptable on the facts presented in the case but not otherwise of broad applicability. The student should ask himself, "To what extent are the facts of this case exceptions to the rule?" "What facts would need to be changed to create a probability that a reasonable person would accept a different finding?"

Dissenting opinions should be read with care, noting the reasons for dissention and the names of the persons dissenting. Some of the current rulings of the courts were forecast years ago in the masterly dissentions of such men as Holmes and Hughes. Furthermore, in general, a divided opinion is accorded somewhat less weight than is a unanimous opinion of the court; and, to a degree, lesser weight is given a unanimous opinion if there are divided reasons for concurrence. Unsigned reports are considered less weighty evidence than signed ones. Decisions overruling prior decisions are considered less weighty than other opinions, as are decisions taking no note of contrary rulings in other jurisdictions.

Decisions based on a statute contrary to common law are accorded little weight in other states. Arguments thrown in as an extra point by the courts are considered as little more than dicta. Dicta are considerably less weighty than the relevant findings of the court. When a decision depends upon a point not argued by counsel, it should be viewed with somewhat less credence than where the point has been covered by both sides. Decisions framed in broad general language when the actual facts of the case were rather narrow may not prove to be valuable when a case with a different set of facts arises.

CHAPTER III

STATUTES

A proposed statute in the legislative chambers of one of the states or the Congress is referred to as a bill or an act. Such bills are printed in a form making for easy reference to existing statutes with parenthetical and explanatory material so that a member of the legislature can quickly see a law as it now reads and as it will read after any proposed revision. The Congress carries a complete record of all hearings, debates, and proposed amendments to any measure, as do most states. The prescribed form of a bill contains a title, enacting clause, and various numberings to identify it in its order of passage and to identify the statutory material with which it is connected. Such printed copies as are finally enacted and approved by the executive departments are called "slip laws." Federal slip laws are published in pamphlet form whether they comprise single paragraphs or scores of pages. They remain in the form used in Congress. These may be purchased from the Superintendent of Documents in Washington for a few cents. A few states publish slip laws. A larger number make available copies of bills as they are on last printing in the senate (or the house, depending upon the order of introduction).

Shortly after the adjournment of the legislative body, the secretary of state, government printing office, or some other official group issues a collection of the enactments of that legislative session. These official publications have varying names. For the United States

they are known as Statutes at Large[1] and for a state like Illinois as The Laws of Illinois.[2] A subtitle will indicate the year and the number of the Congress or legislature. More commonly these publications are known as Session Laws since they enumerate the enactments of a specific legislative session. They constitute the primary authority for statutory law of a given jurisdiction and are cited by the specific name of the appropriate volume. For all practical purposes, however, citations are acceptable from the more usable codes and compilations, as will be noted.

Since the session laws include many repetitions of prior enactments with minor changes in wording, they are unwieldy to use. A collection of them requires a tremendous amount of space. Moreover, the laws are often issued in order of their passage without reference to the number of times virtually identical bills have been passed down through the years. Enactments contain only matters under current consideration; these must be fitted into the system of existing statutes. An exhaustive indexing system is necessary to make them usable. Consequently the revised laws are compiled after each legislative session for each jurisdiction by some official, semi-official, or commercial agency. These compilations put related material together, discard repealed material, organize and index the laws to make them usable. The classification system used in the collection may or may not have official sanction. In Illinois, for example, the Smith-Hurd Revised Statutes[3] is sponsored by the Illinois Bar Association,and, in general, uses the classification systems established by the legislature.

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[1]Washington: Government Printing Office, 1875 to date.

[2]Springfield: Office of the Secretary of State, 1818 to date.

[3]Chicago: Burdette-Smith, 3 v., 1959.

Occasionally a legislative body authorizes a commission, legislative reference bureau or other group to compile all of the laws about a certain subject, eliminating obsolescent material and duplications, and simplifying wherever possible. It is intended to make no real change in law by this process, but rather to classify and simplify the existing material. The compilations are then re-enacted as a whole and long lists of enactments of prior years are repealed. Frequently such re-enacted compilations of subdivisions of the complete statutes follow recommended modernizations or model laws and are known as codes, i.e., "Civil Code," "Criminal Code," and "School Code."

Locating Statutory Law: Mr. Justice Frankfurter once noted that "as late as 1875 more than forty per cent of the controversies before the court were common law litigation, fifty years later only five per cent . . ."[1] Even more startling than the bulk of enacted law is the impact of the growing multiplicity and complexity of statutory provisions. Locating all of the pertinent statutory material may sometimes be the hardest part of law work.

Only for certain specialized types of legal research is statutory law indexed with court decisions and administrative law; and such combinations are confined to the more specialized indices. Examples are federal tax law, federal or state labor law, agricultural law, insurance, and similar special branches. These are discussed elsewhere in this manual. For aspects of law in which there is limited practice, such as school law, fewer tools are available. For some states digests or encyclopedias include a limited treatment of statutory material, but in

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[1] "Some Reflections on the Reading of Statutes," 47 Columbia Law Review 527 at 546 (1947).

general one is thrown back upon special versions of the statutes themselves.

The essential ingredients to statutory research are facility in using tables of contents and ingenuity in discovering alternate words or phrases to apply to an index. For example, when search under "taxes," "funds," "levies," and "budget" has failed, the word "revenue" may yield the desired results.

Where the school laws have been codified and in many states where there has not been a codification but the compilations are available to public officials, the school law is published as a separate volume by the state office of public instruction or the secretary of state. Where this is done it is customary for a supplement to be issued between revisions and republications of the completed compilation of the code. Quite often this document will be the one legal tool available to a local superintendent of schools. In using tools published in this manner, search should start with the latest supplement and proceed back to the permanent document.

Where the law has not been codified and often where it has, a thorough search of the statutes may yield pertinent material obscurely situated in provisions only remotely related, material repealed by implication or obsolescence, and unrepealed material which might have new meaning.

The capacity of the human brain to find a hidden meaning or an ambiguity in what is thought to be the clearest of statements has been too often demonstrated for elucidation here. Suffice it to say that location of statutory material is only the beginning, even though the subject may be one in which the legislature has plenary authority, like public schools. Consequently the questions of how and when statutes have

been interpreted are relevant to any research in legislative enactment. To facilitate such study compiled statutes are often annotated by including in the volumes under each section, digests of court decisions interpreting or affecting it. The more complete annotations also include a history of the wording employed in the section from the original enactment through the various compilations and amendments. These miniature digests are organized by subject under such headings as construction, constitutionality, applicability of related material, definition of terms, etc.

For many legal problems the most practical approach is through the annctated statutes. From the court case located there, by the use of citators and other indices to be discussed, the researcher may find the quickest road to the discovery of all the pertinent cases.

Revised, compiled, or codified statutes may or may not be official; and even if they are official it does not follow that they are positive law. Legislative bodies may do as the United States Congress does, provide for an official codification of the law by either governmental agents or private contractors without going through the process of enacting the resultant codes into law and repealing the scattered materials which each combines. Again, because of human ingenuity in discovering a variety of meanings from the same words, legislatures have had the unhappy experience of repealing scattered redundant materials in favor of re-enacted simplifications only to find unexpected substantive changes resulting. For practical purposes annotated editions of compiled statutes of codes are the best tools for research and generally acceptable as citations. The "best evidence," however, remains the session laws.

State Statutes: There are a number of good indices available on state constitutions, including digests and annotated collections. Complete copies of session laws for various states, however, are rareties even within a state. Relatively few states enact their compiled law into positive law and the recodification and enactment of model acts proceeds sporadically. Moreover few libraries have practical use for complete collections of statutes from all jurisdictions.

However, annotated statutes carrying state bar association endorsement or even official sanction are available for most jurisdictions. The law digest volume of The Martindale-Hubbell Law Directory[1] carries a brief annual digest of the law of the various states and territories and a briefer summary of foreign law. This is a standard publication with almost 90 years of continuous service. The Lawyers' Directory[2] and the Annual Survey of American Law[3] also carry current annual state summaries. The Public Affairs Information Service Bulletin[4] appears weekly and cumulates annually; it affords indices on various aspects of law, particularly uniform laws enacted. Laws which affect commerce such as tax provisions, labor regulations, insurance laws, carrier regulations, mortgage laws and many others are covered by loose-leaf services.[5] These include such specialties as daily legislative progress reports and advance mimeographed copies of session laws. The U. S. Office of

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[1]New York: Martindale-Hubbell, 2 Vols., 1931 (Martindale since 1868; Hubbell, 1870).

[2]Cincinnati, Ohio, Lawyers' Directory, annual 1863 to date.

[3]Rochester, New York.

[4]New York: Public Affairs Information Service, 1915 to date.

[5]See Chapter VI.

Education publishes a summary of state school laws,[1] as does the Huston Company[2] of Seattle, Washington. The Council of State Governments in its magazine State Government[3] regularly summarizes state legislation and publishes special information on Model Acts and Codes.

United States Statutes at Large: The session laws of the various states commonly contain only the enactments of the legislature. These are not widely used after revised or compiled statutes are available. The session laws of Congress, however, known as the Statutes at Large, are standard reference works. The content of these has varied over the years. At one time these publications contained treaties, international agreements, and executive orders. At present much of the former content is published in the new series, United States Treaties and Other International Agreements[4] and the Federal Register System.[5]

The Statutes at Large contain only the public and private laws enacted. Since the compilations of statutes have not always been re-enacted into positive law, the Statutes at Large remain the "best evidence" and are the primary authority for all federal legislation except those sections of the Revised Statutes[6] still in force and those portions of

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[1]Cf. Arch K. Steiner, State School Legislation, 1957, U. S. Department of Health, Education and Welfare, Washington: United States Government Printing Office. 1959.

[2]The Wendell Huston Company, School Laws of the 48 States, Seattle, 1917 to date, 2 v.

[3]Chicago: The Council, 1927 to date, (32 v., 1959).

[4]See Chapter IV.

[5]See Chapter IV.

[6]Washington, D. C.: Government Printing Office, 1875. Published as Part I, Volume 18 of the Statutes at Large.

the United States Code which have been re-enacted. The federal session laws also contain the acts in original form, including the original numbering of sections. The one difference from the slip laws is that identification material originally placed in parentheses or in headings has been moved to the margins. If the citation is by the number of the public law and not by chapter, search should be made in the index which gives number, title, approval date, and page. Other indices give subject, department, bureau, popular name, individuals named, amendments to codes, reorganization plans, and the like.

Compilation of Federal Statutes: As with state laws, the federal acts are published in the order of passage. Many of them are of extreme length and of a temporary nature; some of them are re-classifications or rewritings of existing law and others are amendments to earlier acts. A complete compilation of federal laws as of 1873 was made. It was intended to arrange and classify, rewrite as necessary, and discard the obsolete without making any substantive changes in existing statutes. The completed revision was enacted in 1875 and a lengthy mass of prior legislation repealed. Many errors were discovered, however, and what were intended to be simplifications were sometimes interpreted as modifications. Consequently a second edition was adopted by correction laws in 1878. The legal effect of the two editions is not the same. The 1873 revision alone is primary law (enacted in 1875). The new edition corrects the old by virtue of statutes at large enacted as omnibus bills; it is not the primary authority. To avoid difficulty in this matter the new sections are printed in italics. Supporting primary evidence for these sections is to be found in the Statutes at Large at the reference given either in brackets or in the margin.

In using the Statutes at Large it should be noted that public laws with consecutive numbers are not necessarily listed with consecutive chapter numbers, inasmuch as several private laws may intervene between the two public laws. Prior to 1936 each edition of Statutes at Large contained all of the sessions of a single Congress; present practice is to publish a volume at the conclusion of each session. The first seventeen volumes of the Statutes at Large were privately published; the eighteenth volume covering years 1873-75 saw the beginning of the official publication. Coverage of the various private editions is not identical. Not until volume nine did these volumes begin to include treaties, international conventions, proclamations and resolutions, as well as public and private laws.

The United States Code: By 1925 the Statutes at Large had again grown bulky; it was necessary to check volumes twenty through forty-three to ascertain any given point. Consequently Congress authorized the official compilation of a code. Although this volume is official, it is only prima facie evidence of the law except for those portions which have been re-enacted as positive law. The Code[1] substitutes fifty titles for the seventy-four subdivisions of the Revised Statutes. It includes conversion tables and cross references to the Statutes at Large and other helpful references. As of 1957, the following titles have been recodified and are positive law: 1, 3, 4, 6, 9, 13, 14, 17, 18, 28, and 35.

United States Code Annotated Editions: Many purists maintain that a statute is not authoritative until a court has passed upon it.

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[1]Washington: Government Printing Office, 1951 ed, 5 v., annual supplements.

Be that as it may, statutes apart from the court interpretations are often misleading. Several annotated statutes are available which give in footnotes or in fine print historical summaries of a legislative section, and court interpretations; these are probably the most widely used versions of federal statutes

There are two complete annotated editions of the United States Code. The United States Code Annotated (U.S.C.A.) published by West contains approximately 80 volumes and temporary pamphlet supplements which are cumulative. From time to time volumes are replaced. In addition to the annotations, historical references and cross references, there are a four-volume subject index and a table of acts by which popular name titles can be converted into United States Code references or citations in Statutes at Large. Specifically designed to supplement this edition of the Code is the United States Code Congressional and Administrative News[1] issued by the same company. This gives access to committee reports, hearings, speeches, executive orders, proclamations, administrative rules and regulations, and similar matter. It appears semi-monthly when Congress is in session and cumulates in annual volumes. An index in the United States Code Annotated gives access to both series.

The Federal Code Annotated,[2] published by Bobbs-Merrill Company, Incorporated was first published in 1937. It contains the same subject matter as the other editions, but arranges related titles together in distinct volumes. It is kept up to date with a ten-year cumulative supplement and monthly pamphlets. Special features of this series include annotations to uncodified matter including treaties and proclamations.

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[1]St. Paul, Minnesota: West Publishing Company, 1944 Edition (4 vols.with period supplements). See Chapter IV.

[2]Indianapolis, 16 v., periodic revision, supplements.

Indices to Federal Statutes: There are several indices to federal statutes. Scott and Beaman's Index Analysis of Federal Statutes[1] covered the period from 1873 to 1907. This was revised in 1933 to bring the index down to 1931.[2] Thus material contained in the statutes from volumes 18 through 46 are indexed in this series. Since the Revised Statutes of 1873 are contained, the coverage is complete from 1789.

Various editions of the Code contain special purpose cross referenced indices. United States Law Week[3] contains in addition to current publications of federal legislation a cumulative index. The indices of Shepard's Citations[4] and volume 14 of the United States Supreme Court Reports Digest[5] also are valuable for analysis and cross references on federal statutes. There are both public and private editions of popular name indices to federal enactments.

Constitution: The Constitution of the United States is undoubtedly the most available piece of legislation known to this country. For most legal purposes an annotated edition is needed for the clues to elaborate explanatory matter. The Library of Congress edition[6] is the most

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[1]Scott, G. W., Beaman, M. G. and others, 1908 and 1911, Washington, D. C.: Washington Libraries, 2 v.

[2]McClendon, W. H. and Gilbert, W. C. Index and Analysis of Federal Statutes. Washington, D. C.: U. S. Government Printing Office, 1933.

[3]Bureau of National Affairs, Incorporated, United States Law Week, Spetember 5, 1933, to date, Washington, D. C.: The Bureau.

[4]See Chapter V.

[5]Lawyers Cooperative Publishing Company, Rochester, New York, 1948-51, 16 v.

[6]Washington, D. C.: U. S. Government Printing Office, 1948, 5 v., Annual supplements.

generally useful one. For systematic current supplementation, lawyers use either the United States Code Annotated[1] or the Federal Code annotated[2] which include a virtual history of the Constitution clause by clause, with elaborate indices to connect the interpretations of the Constitution with various statutory material.

Interpreting Statutes

The novice is frequently baffled by the number of interpretations of apparently plain language which can be made. To the uninitiated, it sometimes seems as though the legal profession is perversely interested in twisting language to arrive at quixotic answers. Legal questions seem to be trick questions and legal language unnecessarily verbose, repetitive and exaggerated. Indeed, it takes some time to learn to read legal documents in terms of the questions which the documents may create as well as those which they may solve.

Particularly it is important for the student to develop the habit of viewing statutory material which has not been interpreted by the courts with suspicion. "What does it actually say?", the student should ask himself; not "What would be a good meaning for a particular statute to have?", nor what it would be likely to mean nor what does it seem to say--but precisely what does the language convey? Particularly, should one view with distrust new and untested statutory material which contains unusual words or colorful phrases. The student should ask himself, once he has decided what a statute means, how it would be read by someone

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[1]West Publishing Company, 1927 to date, 84 volumes with current supplements.

[2]Indianapolis, Indiana: Bobbs-Merrill, 1937 to date, 16 volumes.

perverse enough, odd enough, or vicious enough to want to achieve exactly the opposite result from that which the statute seems to contemplate. The ability to see someone else's viewpoint and argument is a useful one in reading legal material. The ultimate question, of course, is, "How are the courts likely to interpret the material?"

There are large volumes devoted solely to analyses of rules followed by courts in interpreting enacted law. Only a few of the major concepts are within the scope of this paper. The student will be constantly enlarging his understanding of methods used by the courts in finding clear-cut guideposts in statutory material.

To begin with, if possible the courts will follow the plain dictionary meaning of language. Other things being equal, The Merriam-Webster Unabridged Dictionary[1] is the authority on the meaning of terms; however, there are many exceptions. For example, when the legislature has defined in the statute itself, the meaning it wishes to be given to certain terms, the courts will try to respect that meaning. Also the courts will choose a meaning of terms which is most likely to render a statute constitutional. Contrary to many popular notions, the courts do not like to undo the work of legislatures. Likewise, courts tend to construe language in such a way as to make it consistent with other legislative expressions. They tend to construe related legislation as a whole--that is, widely scattered enactments affecting a common subject, like schools, if they contain common language, are likely to be construed together, rather than as separate parts. Where language is vague and no strong reasons are apparent for preferring one meaning over another,

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[1]Webster's New International Dictionary, 2d ed., Springfield, Massachusetts: Merriam Company, 1950.

the courts will attempt to ascertain the intent of the legislators. This may be done by the scrutiny of other enactments, including particularly material amended or repealed by a new act.

The courts, in case of doubt, tend to preserve existing common law; that is, they tend to reject meanings at variance with an established interpretation. If a statute is clearly contrary to the common law, courts tend to interpret it strictly or literally, permitting only such breaks in the chain of established custom as the statute clearly necessitates and no more. In other words, again contrary to the general belief, the courts are reluctant to "write new law." On the other hand, statutes which reinforce or re-affirm the common law are likely to be interpreted broadly.

Where a statute contains an enumeration of items one of which is subject to question, the courts are prone to give it a meaning consistent with the other terms in the list. For example, an authorization for the dismissal of governmental employees for immorality, incompetence, or "other just cause" is likely to be interpreted with such "other just cause" required to be of an infamous nature parallel to the specific items in the list. Where two statutes cover a situation, one having more specific reference than the other, the specific is likely to be interpreted as having precedence over the general; for example, a directive outlining school board procedures applying to school boards in general is considered less applicable to a specific board than is a parallel statute having reference to the particular type of district in question.

Again contrary to popular opinion, the courts generally defend the separation of administrative, legislative, and judicial powers and go to some length to preserve the separate spheres of authority. Where the legislature has given discretion to an administrative body to make

certain decisions the courts are reluctant to interfere with such decisions and will place the burden of proof on those who would upset them, requiring evidence of fraud, arbitrariness, complete unreasonableness, or bad faith. The courts will not substitute their discretion for that of an administrative body or other authorized agency. Nor will the courts supply missing legislation. They will, indeed, attempt to interpret the intent of the legislature where omissions occur in statutes, but where there is no implication or inference that would justify a court in supplying missing elements in legislative enactments, the courts will simply state that the plaintiff's remedy lies with the appropriate legislative body. The courts will not even permit legislative bodies to delegate discretion so broad as to constitute a delegation of legislative power. For example, courts have repeatedly rendered void statutes authorizing one or more persons to draw up and administer rules for controlling the populace except within a rather clearly defined framework. That is for the legislature to do. To be sure, this line of demarcation between ministerial, legislative, and judicial functions becomes exceedingly fine. As life becomes more complex it becomes harder and harder for any legislative body to make enough rules to carry out the details of government. More and more of the decision-making must be left to administrative agencies or semi-judicial groups. Efficiency requires it. The protection of crowded court calendars requires it. This line of demarcation, then, is a highly specialized area in which the law is constantly growing. The beginning student again can only accept the two general rules: (1) the courts will not allow the legislature to give away its inherent authority, and (2) the courts will permit in the name of efficiency the granting of considerable discretion to administrative bodies, and will protect those bodies in the preservation of this discretion.

In the same manner that the meaning of terms frequently enters into the interpretation of statutes, formal grammar is important in resolving meanings. Provisos, subordinate clauses, phrases, and qualifying words of all kinds should be scrutinized with care to see exactly what words they qualify or limit. Verbs which employ a tense other than the historical present should be read with care; the definition and description of the legal subject of an act, if not clearly enumerated, is a matter of great concern especially in view of the constitutional guarantee of equal protection. The right, power, privilege, obligation, or sanction of the law should be definite. The terms "may" and "may not" are generally construed to be permissive, and the terms "shall" and "shall not" as mandatory. Where the subject of an act seems to be expressed in a proviso or exception, it should be viewed with extreme suspicion. The difference between affirmative and negative language needs to be noted; in some jurisdictions affirmative words may be held to be directory while negative words are mandatory. Unless the statute provides to the contrary, the singular form is construed to include the plural and the masculine to include the feminine; a "person" may be held to include a corporation, but generally not a governmental body. An action frequently used in law, unless defined in the statute, is likely to be construed in accordance with the common law use of the action word employed. For example, "notice" in the absence of any amplification may be construed in some jurisdictions to require personal service with a written document, since the term "notice" has a widely accepted usage in law.

Old English law barred the inclusion of punctuation in the interpretation of statutes; although this rule is much modified in modern practice some conservative courts are reluctant to admit the effect of punctuation in legislative language.

The legislature is presumed to act with full knowledge of existing legislation and where doubt exists the courts are unlikely to consider matter irrelevant which has not been expressly repealed and there is a way to interpret new statutes without implying repeal. On the other hand, matter clearly at variance with a new act is automatically construed as repealed. Where no action arises and the two statutes are carried on the books for some time, the repeal of the second may result in confusion since the fact that it may have had the effect of repealing the earlier material has not ceased to exist.

Except as especially provided statutes are presumed to have been enacted for all time, to be in effect upon passage with the requisite approval and to be available to all. A distinction is drawn between concurrent resolutions and joint resolutions in federal legislation; only the latter are normally submitted to the President and considered legislative in nature.

CHAPTER IV

OTHER FORMS OF SUBSTANTIVE LAW

Treaties and Other International Acts

By Constitution, treaties are the supreme law of the land. Apparently executive agreements have a similar effect if not an equal standing.[1] Treaties and international agreements of all kinds, even those requiring ratification by the Senate, are first issued as press releases, generally mimeographed in English only, with a State Department explanation of their history. Most of these are later published in the State Department Bulletin[2] and finally in slip law form, an official version issued by the Department of State and an unofficial version published in the United States Code Congressional and Administrative News.[3] Certain treaties are covered in commercial services, for example, the Commerce Clearing House Tax Treaties Reports.[4] Most commonly used permanent sources of treaties are the Statutes at Large through Volume 64 and since that time, the United States Treaties and Other International Agreements;[5] the United Nations Treaty

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[1]United States v. Belmont, 301 U. S. 324, 57 S. Ct. 758, 81 L. Ed. 1134 (1937); United States v. Pink, 315 U. S. 203, 60 S. Ct. 562, 86 L. Ed. 796 (1942).

[2]United States Department of State Bulletin, Washington: July 1, 1939 to date. 28 v.; replaces Treaty Information Bulletin.

[3]St. Paul, Minn.: West Publishing Company 1939-to date.

[4]Washington, New York and Chicago, 1924-

[5]United States Department of State 1950-58, 8v in 9. For current information see the State Department's loose leaf service, United States Treaty Developments (1947-

Series[1] carries acts appropriate to that body and supplants the former League of Nations Treaty Series.[2] Indian treaties, officially published in Statutes at Large, have been collected in several documents issued by the United States Government Printing Office.

Access to treaty material may be had through the various sources of their publication. In addition, there are a number of special collections listing an index of international acts, including proper name listings. The best all-purpose index and citator is the United States' Department of State's loose-leaf service United States Treaty Developments.[3]

For interpretations of foreign treaties by American Courts, or rulings of international courts, some clues may be found through the major digests and citators because much of the material is published in Statutes at Large. In addition there are three American digests of international law, Wharton's Digest,[4] formerly considered the authoritative statement, Moore's Digest,[5] giving official views of the United States' view of international law, and Hackworth's Digest[6] a more modern text.

Administrative Law

In theory the legislative, administrative, and judicial branches of government are separated and the courts will go to some length to

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[1]Lake Success and New York City, Columbia University Press 1947-

[2]London: Harrison 1920-1946, 205 v.

[3]Washington: U. S. Department of State, 1947-

[4]Wharton, Francis, A Digest of International Law of the United States, 2 Ed., Washington, D. C.: United States Government Printing Office, 1887, 3 v. and appendix.

[5]Moore, John B., A Digest of International Law, Washington, D.C.: United States Government Printing Office, 1906, 8 v. (also published as House Document #551 52nd Congress 2nd session).

[6]Hackworth, Green H., Digest of International Law, Washington, D. C.: United States Government Printing Office, 1940-1944, 8 v.

maintain this separation. In practice, however, they overlap. Administrative agencies also create positive law; the power to administer is the power to interpret, and, therefore, the power to modify. Efficiency demands that decisions be reached; the essence of getting things done is the exercise of discretion. As government grows more and more complicated, more and more decisions are left to individual administrators or tribunals. Administrative law, then, arises from two general sources: The inherent power of an agency to get work done and specific authorization and delegation of discretion by the legislative body. For example, presidential power to make some executive agreements arises from the president's authority to control foreign relations; his power to regulate the tariff, in particular, arises from specific legislation directing him to do precisely that.

The bulk of administrative law is federal law. Many of the fields are highly complex specialties. There are a vast number of indices giving access to these fields. The most comprehensive in the field of federal law is the Federal Register System, comprising three publications: The Federal Register,[1] (FR) the Code of Federal Regulations,[2] (CFR) and the Government Organization Manual.[3] These publications grew from the Federal Register Act of 1935 as amended by the Administrative Procedure Act of 1946.

Since the First World War the Congress has created more and more special agencies to handle the details of special governmental problems.

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[1]Washington: Government Printing Office, March 12, 1936 to date, daily except Sunday, Monday and certain holidays.

[2]Washington: Government Printing Office, 1949 ed., approximately 60 v., supplements.

[3]Washington: Government Printing Office, 1948, with supplements?

By 1935 the situation was so chaotic that a case actually reached the Supreme Court of this Nation before it was discovered that the regulations which precipitated the dispute had been rescinded. Notice was so inadequate that attorneys for neither side and none of the courts through which the case passed were aware of this change.[1]

In 1935, Congress provided for prompt publication of regulations, proclamations and executive orders in the newly established Federal Register. Two years later a law was enacted providing for the codification of existing regulations and the Code of Federal Regulations appeared in 1938.

In spite of the resultant improvement, there was still general dissatisfaction with the multiplicity of agencies and the somewhat nebulous lines of demarcation between them. As a consequence, Congress enacted the Administrative Procedure Act of 1946 providing for the publication of descriptions of organizations, their procedures and rulings. In 1948 the publications of the United States Government Organization Manual[2] was added to the other two publications.

The Federal Register is published some five days a week and includes such items as presidential proclamations, all documents prescribing conduct or conferring rights, publications required by Congress and other documents deemed of public interest. The regulations covered in this publication do not include the rules of Congress or the procedures of courts; they do include the rules of practice of administrative bodies. The four principle headings in the document

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[1]Panama Refining Company v. Ryan, 293 United States 388, 55 S. Ct. 241, 79 L. Ed. 446 (1935).

[2]Washington: Government Printing Office (1959-60, June, 1959).

are: "The Presidency," "Rules and Regulations," "Proposed Rules," and "Notices"; indices and tables are to the system as a whole.

The Code of Federal Regulations (CFR) is the collection of rules in force of various federal agencies as they have been cumulated after an original publication in the Federal Register. The Code is made up of fifty titles arranged alphabetically, many of the titles corresponding in both number and heading with the United States Code. A decimal system indicates subsection numbers; thus, Section 202.12 is subsection 12 of Chapter 202. Supplements are printed annually; note should be taken by the user as to whether or not a specific issue is cumulative.

The third member of the Register System is the United States Government Organization Manual. It digests statements already printed in the Federal Register giving the purpose, current organization, and functions of governmental agencies and certain quasi-official agencies such as the American Red Cross.

In addition to a complete index for the Register System, there are elaborate sets of conversion tables so that one may go from the statute authorizing the agency to the rule, from the rule to court interpretations of it, and from any of these trace a rule through all of its various changes. In addition, where a rule is cited in connection with the Statutes at Large, or where it has been interpreted by the courts, Shepard's Citations or other tabulations may be used to trace materials. The most numerous and weighty of the president's law-making activities are his use of proclamations and executive orders. These may be located by serial number or date, as slip copies, as summaries or tabulations in the Code of Federal Regulations, as originally printed and numbered in the Federal Register, or in the United States Code Congressional and

Administrative News.[1] The Statutes at Large contain most of the proclamations prior to 1859, reorganization plans, treaties, and international executive agreements, but not other executive orders. There are various special collections of presidential documents and diverse indices to them.

Since the bound volumes of various agencies appear at such an interval of time after actual decisions are rendered, agencies follow a variety of procedures to make certain any rulings which might be cited as precedents are given adequate public notice: the Interstate Commerce Commission prints its opinions as they are rendered, the Department of Interior issues printed advance sheets monthly. Agency bulletins of the Internal Revenue Department include court decisions, changes in regulations, and staff opinions, as well as agency rulings. Mimeographed copies from the Federal Power Commission include digests of court opinions. Some agencies publish their own digests such as the Comptroller General's Index--Digest of the Decisions of the Comptroller General.[2] Some are published by associations of the users such as the Consolidated Current Index to the Decisions of the Interstate Commerce Commission. This is the work of the Association of Interstate Commerce Commission Practitioners who pride themselves on the most complete coverage available.

In 1939 at the request of the President, the Attorney General appointed a committee on administrative procedure. The 1941 monographs and report of this agency resulted in further extension of administrative

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[1]St. Paul, Minnesota: West Publishing Company, 1951- , approximately 22 v; earlier edition, United States Code Congressional Service, 1944-51.

[2]Washington, D.C.: Government Printing Office, 1957, 2 v, covering volumes 26-37.

reorganization. Two subsequent commissions gained prominence as the Hoover Commissions on organization of the executive branch of the government. The monumental work begun by these commissions continues indefinitely.

These and many other publications may be sought through many specific indices or through such publications as the Monthly Catalogue of Government Publications.

The better known federal agencies such as tax courts, agricultural agencies, commerce commissions, National Labor Relations Board (NLRB), United States Maritime Commission (USMC), and the like, publish their findings and rulings. A few are of such little general interest that unpublished "manuscript decisions" are made. Rulings of the United States Patent Office furnish an example. Some reports like the Department of Agriculture's Agriculture Decisions (USAD) are issued as advance sheets as well as in the form of slip laws and permanent reports. These reports include both department rulings and court decisions.

The regular legal digests carry many of these rulings beginning at about the time of the Fifth Decennial Digest. In addition there are both official and unofficial digests of specific agency rulings. The commercial ventures such as Lois G. Moore's Tax Court Digest[1] are most used. These work in the same manner as the digests and citators for court case law. Under the heading of loose-leaf systems of legal documentation other standard references on administrative law are discussed elsewhere in this manual.

State Agencies: Most states have publications analagous to the United States Government Organization Manual. Publications of state

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[1]Indianapolis: Bobbs-Merrill, 1951.

administrative agencies may be checked through the Monthly Checklist of State Publications[1] of the Library of Congress. The student will find it advantageous in searching administrative law to start with current material and work backward. Often indices or cumulative statements will provide short cuts to earlier versions of a decision or rule.

For states which do not have any requirement similar to the Federal Register Act, there may be an act requiring central filing of rules of commissions and boards with the secretary of state, state library, or state executive branch of the government.

If none of these suffice, it may be necessary to contact individual agencies within separate states for regulations. In general, however, they may be obtained through public or private loose-leaf indices.

Quasi-Judicial Opinions: There is a twilight zone where administrative law shades into mere opinion. For example, a state school superintendent is often delegated certain administrative duties which involve policy formulation and enforcement. The resultant rulings are clearly administrative law. He also has delegated to him an appeal function which involves hearing and determining a number of school controversies. These quasi-judicial functions also partake of legal essence, but are less persuasive as authority. Appeal is generally to the lower courts. He is further authorized to advise district officers regarding legal matters. These statements are also of some standing in disputed matters but rank relatively low as precedent.

The same situations prevail with a number of administrative offices, both federal and state. The character of the statute under

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[1]United States Library of Congress, Monthly Checklist of State Publications, Washington: Government Printing Office, (49 v and supplements, 1959).

which such a pronouncement is made determines to a large extent the shade of weight the opinion will bear. In a number of states, as in Illinois, the State Superintendent of Public Instruction and also the county superintendents of schools are required by law to advise school officials as to the law in case of controversy or question. They are also given definite discretion to administer certain acts. The different standing of their legal acts as administrators of law involving the exercise of discretion and as advisers of subordinate officers is often overlooked.

CHAPTER V

MAJOR REFERENCE BOOKS

Secondary Sources of Law

From the constantly accruing mass of decisions, statutes, rulings, and agreements the task of locating the best answer to a given legal problem would be virtually impossible on the basis of official indices only. Among the formidable list of secondary documents used to gain ready access to the primary data the encyclopedias, digests and citators are the most widely known. There are scores of such tools; a brief treatment of the recent texts most generally used will illustrate their function.

The Legal Encyclopedias

Organized initially according to an alphabetical scheme like any other such work, the legal encyclopedias serve the major purpose of giving coherence to what would otherwise be an amorphous conglomeration of wisdom, pronouncements and aphorisms. The common law of a region covered by such a set of books is organized into a logical statement not unlike the familiar "textbook." In fact, they are quite often called textbooks in legal discussions. Historically the great modern reference works have developed from the treatises of individual scholars.[1] Minor differences among the various jurisdictions covered by the work are documented in the footnotes, and, in the case of the major national encyclopedias, citations on each major point are given by states so that entree

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[1]See Treatises and Textbooks, Chapter VI.

may be had to local cases from a general work. Thus, although their major purpose is to fit the various fragments of law together so as to show relationships and larger meanings of the whole body, the encyclopedias are a common point of departure for analyzing a chain of decisions in a particular state. The proximity of interpretations and citations from other jurisdictions make it possible to render better judgment as to how gaps in the chain or new issues are likely to be met.

The legal encyclopedias are secondary sources of authority and not necessarily correct in their interpretation of the applicability of a case on a particular point. They represent the first step in many research problems; the habit of pursuing research beyond them is essential to an understanding of the issues involved. They are not quoted as statements of the law. Chief research value of the encyclopedias is in locating a chain of decisions to trace. Citations should always be checked before accorded reliance toward solving a legal problem. Two successions of encyclopedias embrace the entire field of American law. Each has a recently completed work which is a revision of older compilations. Each has divided the field into a large number of major topics which are arranged in alphabetical order.

The Corpus Juris Series: The Cyclopedia of Law and Procedure[1] (cite Cyc.) combined earlier books separating law from procedure. It was kept up to date by annual supplements. In 1913 volume 72, an Index and Concordance, completed the set which had been started in 1901. Decisions from all American states and territories, Canada, and certain cases from England formed the basis for the encyclopedia, or Cyc. as it

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[1]New York: American Law Book Company, 1901-1913.

became known. In 1936 the publication was discontinued and supplanted by Corpus Juris[1] (cite C. J.). This seventy-two volume work cites decisions from the same jurisdictions and in addition contains the history and development of legal doctrines, theories as to the interpretation of dicta, and indicates leading cases. A separate volume, called Quick Search Manual, contains charts and outlines for the location of principles and precedents. Corpus Juris Annotations, the name given to annual supplements, kept the earlier volumes up to date while a new encyclopedia was developed. In 1937, a final supplement, entitled Descriptive Word Index and Concordance to Corpus Juris appeared. This work repeated in alphabetical arrangement the main titles and subdivisions of the original encyclopedia, thus citing new material and at the same time providing quick reference to the older.

Corpus Juris Secundum[2] (cite C. J. S.) is a revision of Corpus Juris, based upon more recent decisions; by footnote reference to Corpus Juris, the new encyclopedia provides easy access to the material in both. This authoritative restatement of some 30,000 court decisions forms a text covering the law in general. The topical outline for each subject is subdivided into such numerous subclassifications that a student is generally able to find one bearing directly on the problem under investigation. After locating a general topic in the broad outline, the student should turn to the page beginning that discussion for a more detailed outline to find the exact topic needed. Many sections are subdivided again and italicized headings make further subdivision

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[1]Brooklyn: American Law Book Company, 1914-37, 72 v. (Permanent annotations 1922-26; 27-31; annual annotations 32-37.)

[2]Brooklyn and St. Paul: American Law Book Company, and West Publishing Company, 98 v , 1956-57.

easy to follow. Locating material by analyzing the topic, going from outline to subdivision, to further subdivision is called "The Topical Analysis Method." Another method of search is that of using the Word Index. For each topic there is a factual word index covering the text and the footnotes of Corpus Juris Secundum. In addition there are special books in the other publications of this company which yield lists of words which may serve as clues to locating information in the encyclopedia.

At the head of each section in bold lettering is a summarizing statement of the prevailing rule of law explained in more detail in the text; this is called a scope note. Footnotes provide citations, explanations, and reference to other sections of the same work, to Corpus Juris, or to other authority. Also arranged in alphabetical order by states are the supporting decisions for a rule of law from as many states as have had the issues so decided in their courts. Leading cases are quite often summarized in the footnotes with boldfaced headings descriptive of the major findings.

To go with this general encyclopedia are similar local encyclopedias covering particular states. Examples are Illinois Law and Practice,[1] and Michigan Law and Practice.[2] The Illinois work uses the exact terminology applicable in the state, notes differences in state tradition of procedure, and is kept up to date with a pocket part service.

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[1]Burdette-Smith, Illinois Law and Practice. Chicago: Co-publishers. West, American Law Book Company, 1958, 38 v.

[2]Burdette-Smith, Michigan Law and Practice. Chicago: Co-publishers. West, American Law Book Company, 1952, 16 v, pocket parts.

Selective System: American Jurisprudence[1] is the other major new legal encyclopedia. Completed in 1938, it also is a revision of an earlier series, Ruling Case Law[2] (cite R. C. L.). Ruling Case Law was begun in 1914, completed to twenty-eight volumes in 1921. An eight-volume supplement was added later. A general index for the set is contained in Volume 28; and A Complete Index in two volumes supplements the general index. The text is somewhat briefer and simpler than Corpus Juris and more easily used by the beginning investigator. It connects not only with its successor encyclopedia but also with the Lawyer's Editions of annotated reports and digests.

Annually the publishers of these books select what they consider to be leading cases for intensive analysis. The cases are selected on the following criteria: historical significance as legal principles; novelty of the issues; reversal, limitation or expansion of earlier precedents; or any other distinction which might mark a turning point in the development of law. Such selections became the basis for Ruling Case Law.

In 1936, American Jurisprudence was begun as a re-writing of Ruling Case Law. It followed the same method of case analysis but attempted to reflect modern developments by emphasizing change and innovation in the light of new economic and social conditions. It has only recently been completed. Footnotes refer to all United States Supreme Court cases, to leading cases from other jurisdictions,

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[1]Jurisprudence Publishers, San Francisco and Rochester: Bancroft-Whitney and Lawyers Cooperative, co-publishers, 1938, 62 v., supplements.

[2]Joseph H. Hill, Ruling Case Law, Rochester, New York: Lawyers Cooperative Publishing Company, 1931. V. 1-28, supplements.

to annotations in the Annotated Reports System, standard textbooks, and leading law review articles. The footnotes also analyze and classify the citations, give examples of applications of a rule to actual citations noting distinctions and exceptions as they have occurred. The origin and history of legal rules are explained and the limitations and basis of rules are handled by illustrating them with decisions of application. Laws originating in legislation such as workman's compensation, are discussed with references. The impact of legislation on law which originated in custom, such as the law of estates, is also treated.

The beginning of each volume is an alphabetical arrangement of the main titles covered therein. Following each topic is a skeleton outline followed later by such expanded outlines as are needed to cover all of the legal points raised. In addition to the topical analysis method of research made possible by the outlines, a word-index approach is facilitated through the four-volume General Index. To use this Index it is generally easier to start with the thing, act, or person involved in controversy, rather than the point at law, as in topical analysis.

A scope paragraph for each title tells what is included in the discussion which follows and makes reference to related titles or materials which are excluded. An annual cumulative pocket part supplement is used to keep the set current.

The American Digest System

Where the encyclopedias pull together the various decisions and join the findings into a coherent statement, a digest, as the term implies, merely condenses cases into tiny statements of the principal findings and collects them around central topics. The encyclopedias organize a statement or "story"; the digests are simply a collection of succinct

statements. In the encyclopedias the citations or sources of the law are most often in the footnotes; in the digests, individual notations are the body of the work. The best known practice is to use for such summary statements the headnotes or syllabi of the published decisions.

Even though these brief statements are collected and organized around a detailed outline, the digests still exhibit some of the staggering bulk and unwieldiness of unorganized general legal literature. They are not intended to have the coherence and meaningfulness of the encyclopedia. Instead, they substitute for the interpretive synthesis of text material excerpts from a multitude of decisions, allowing the researcher to supply his own collation, and at the same time make some rough comparisons between cases without going through the entire list of citations. This becomes very advantageous when the point involved is not covered in any available interpretation with the exactitude desired.

A legal system based upon precedent confronts the student with the problem of finding what the courts have decided when faced with any given set of facts. The many decisions recorded in the court reporters from states, regions, federal courts, and English and Canadian courts constitute a bulk of material so complex and vast as to be completely useless without some means of indexing and summarizing. One such index is the American Digest System,[1] consisting of some fifty state, territorial and regional Digests and eight separate sets which make up the American Digest proper. The seven units consist of the Century Edition (50 volumes), (1658-1896); First Decennial Edition

[1]West Publishing Company, St. Paul, Minnesota and various collaborators, 1896--, numerous imprints, editions and sets.

(Digest) (25 volumes), (1897-1906); Second Decennial (24 volumes), (1906-1916); Third Decennial (29 volumes), (1916-1926); Fourth Decennial (34 volumes), (1926-1936); Fifth Decennial Digest (51 volumes), (1936-1946); Sixth Decennial Digest (34 volumes), (1946-1956); and General Digest as the developing accumulation has been traditionally called. The series appears at the rate of about two volumes a year. It is kept up to date monthly by a paper-bound pamphlet. The last three Decennial Editions have been known as the General Digest during the time they accumulated to become the complete set; thus, the student will find in some large law libraries a set marked General Digest covering the period from 1936 to date. These volumes, of course, will be duplicates of the Decennial which replaced them each ten years.

The American Digest classification system is somewhat similar to that used in encyclopedias. The entire body of law is broken into something over 400 topics. Each topic corresponds roughly to the chapter of a book, and will designate the various matters to be discussed under that topic. Examples are: contracts, tort, wills, schools, etc. The publishers of this series who also are the publishers of the National Reporter System prepare a digest-paragraph for every point of law in each court decision rendered. These tiny paragraphs are often used as the headnotes in a published opinion in the Reporters. The various paragraphs, then, each a terse statement of a court ruling in a particular case, are organized under the various topics. Each subdivision is assigned a Key Number. This Key Number will be the same for statements on this particular issue wherever it occurs in publications of the company. Thus, the Digest serves as an index to all of the Reporter System and to the local digests. The same number will offer

the key to all American cases from 1658 to the present date through the American Digest Series, the Supreme Court Digest, the Federal Digest, and Reporter Digest and various Reporters.

There are four methods of search commonly used with the Digests. The first is the Descriptive Word Method starting from such matters as the parties involved, place or things involved, basis of the action or issue, methods of defense, or the relief sought. The student chooses a word such as "spectator," "baseball," "office," " negligence," "usury," or "injunction," and pursues it until he finds a word leading to a set of facts applicable. Several descriptive words or groups of words may be found which usually lead eventually to the same Topic or Key Number. One volume gives such a Word Index for the First and Second Decennial Digests; two volumes cover the Third and Fourth Decennial Digests; three volumes the Fifth Decennial and the Sixth Decennial; and there is a pamphlet "Index" for the General Digest, 3rd Series.

The second general method of using the Digests is the Topical Analysis Approach similar to that used in other legal compendia. The procedure is to turn to the analysis at the beginning of each topic in each Digest and follow this from the skeleton outlines through the detailed outlines, using the scope notes as the clues.[1]

The third method of research arises when one knows the name of a case dealing with a point of law. This gives a mechanical access to other cases through the Table of Cases to be found in special volumes beginning with the Fourth Decennial and in the last, or close to the last volume of other Digests. The Table of Cases provides the exact

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[1]See use of ALR, ante.

title, parallel citations in the National Reporter System and the Annotated Reports, the history of the case, and the Topic and Key Numbers under which aspects of the law in the case have been classified. Rapid checking of designated Key Numbers in the analyses which follow the scope notes for each topic makes it possible to check the pertinent ones.

A fourth means of locating material in the Digest is through the reference set Words and Phrases.[1] Arranged on an alphabetical basis by key words, this reference set gives exact cases which have defined a word or a phrase likely to have arisen in a legal matter. For example: would a law covering "motor vehicles" apply to an airplane? A motorcycle? A motorboat? Such a question as this may be more rapidly solved by going to the reference set Words and Phrases to locate a case exactly on the point at issue and use the key numbers of that case to trace the problem of research in the Digests. Annual cumulative pocket parts are available in this series.

Since the Century unit of the American Digest System is not numbered, some means of cross-reference between that set and the decennial is needed. To go from the Century Digest to the subsequent volumes, one follows the conversion tables located in Volumes 21-24 of the First Decennial and 24 of the Second Decennial which give the key numbers and topics corresponding to the sections in the earlier work.

For the more common problem of going from one of the later decennial to the earlier editions, one merely refers to the cross-references under each Key Number in the First and Second Decennial

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[1]Words and Phrases, St. Paul, Minnesota: West Publishing Company, v. 1-48, 1960.

Digest. That is, those two Digests are keyed to and serve as citators or indices for the Century Digest. Since any of the later volumes in the system carry the same Key Numbers for similar problems, it is generally simpler for the student to start his search with the later volumes.

Some cases achieve such wide publicity that they are known and referred to by popular name. An example is the Dartmouth Case.[1] An alphabetical arrangement of tables of popular names is found in the last volume of the second, third, fourth, fifth, and sixth Decennials, volume seventy-two of the Federal Digest, and in volume sixteen of the U. S. Supreme Court Digest.

Occasionally a student will discover a digest paragraph from a case which is not immediately accessible but which seems to bear upon the problem at hand. Until such time as the actual case can be obtained, a next-best solution can be obtained by simply completing the syllabi from the digest. From the paragraph at hand turn to the table of cases which will list all topics and key numbers under which the various paragraphs from this case have been classified. By turning to these topics and key numbers the complete set of paragraphs may be obtained, thus creating roughly something analogous to a summary of the original case. This is a useful device in eliminating some labor where complete case reports are not available, but the student should be cautioned against using such reconstructions in formal studies. Such data are not acceptable as citations in dissertations and not dependable for practical legal analysis inasmuch as the source is entirely secondary and fragmentary.

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[1] Trustees of Dartmouth College v Woodard 4 Wheat 518 (US 1819)

Local Digests are published for most of the states and territories. These follow the same numbering and organizational plan as do the late editions of the other Digests. The Illinois Digest[1] is an example.

Shepardizing Cases

A citator is a publication used to trace the history of a legal principle by a tabulation of some sort. A common example is a numerical conversion table to follow a line of decisions from one volume to another differently arranged volume or set. Most of the encyclopedias and digests have tables which in some sense serve as citators for other sets of books. There are a number of citators built for special use such as those used to convert from the one series Federal Cases to the 233 original official reports; or from the Century Digest to the First Decennial. Other functions served by citators are locating a known case in a parallel publication; tracing the history of statutes as amended, repealed, extended in time, revised or declared unconstitutional in whole or in part; selecting other cases in point; and locating cases which are differentiated and distinguished from a given case.

The most widely known citation series is Shepard's.[2] Each unit of the National Reporter System is covered by a unit of this citator and each state except two has at least one unit of Shepard's Citations. Except for two states, the system covers state and federal constitutions, statutes, city charters and ordinances, and court rules as well as administrative law. Often a single volume or set is devoted to each of these functions.

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[1] Illinois Digest, St. Paul, Minnesota: West Publishing Company, 1818 to date, Various editions, 1958, 39 v.

[2] Shepard's Citations, Colorado Springs, Colorado: The Frank Shepard Company, Various editions, imprints and services.

The method of Shepardizing cases will illustrate the use of such books. If we have a given case with a point we wish to investigate, we may look in the volume of Shepard's Citations of the jurisdiction (state) and particular Reporter where we found the case. Then by locating the volume number and page of the original case in a table we will find all of the cases which followed that one covering the same or similar points and whether they are reprints of the same case, commentaries on that case (as in a legal journal) affirmations of the case, reversals of the case, or in any other way alter or explain the principle. The following are briefly the steps to be taken.

1. Select the decisions to investigate further.

2. Note the particular paragraph or headnote with pertinent principles.

3. In the appropriate volume locate the number of the volume of the Reporter by looking at the upper inside and outside corners of the double page, in much the same manner as would be used in locating a word in a dictionary.

4. Search through the column for a number in bold-face type which is the same as that on the initial page of the report of the decision you are investigating.

5. Note the citations which follow, showing on the left the volume and on the right the page of further decisions in point.

6. The small letters preceding the volume number on the new citation will tell whether the new case affirms, reverses, criticizes, distinguishes or otherwise affects the principle or decision under consideration. Explanations of these abbreviations will be found in the front of the book. They are as nearly as possible the obvious definitions: Small letter "a" stands for affirms, small "c" for criticized, small "d" for distinguished, small "e" for explained, and so forth.

7. The superior number to the left of the page number of the new case corresponds to the number of the syllabus (headnote or principle) which is affected by the case noted.

8. Check the latest accumulated supplement or advance sheet in the same manner.

Thus having located a decision, we can find the subsequent cases in which the courts have cited that case and find how the general principle of law has fared since. In like manner, the history of statutes can be traced, or trends in constitutional interpretation followed, by using the appropriate volume of Shepard. The student will find that most of his difficulty in this operation will be due to attempts to use the wrong volume or the wrong section of a volume.

CHAPTER VI

OTHER TOOLS OF RESEARCH

Special research tools for specific purposes are constantly developing as civilization becomes more complex. Combination digests, indices and citators have evolved in a variety of forms. There are not always clear-cut lines of demarcation to distinguish various types of services. The distinction between a small encyclopedia and a large dictionary or textbook is an arbitrary one at best; the same may be said for a number of secondary sources.

Loose-Leaf Services

A number of desultory attempts to maintain loose-leaf and notebook types of legal reference services were unsuccessful in early years. With the advent of income taxes, luxury taxes and the rapid expansion of federal activities, administrative law has taken a dramatic spurt, and loose-leaf services have paced that growth. It was found that such services could digest and combine pertinent statutes, court opinions and administrative decisions faster than more durable records for such matters as federal income tax law. A number of successful systems have evolved.

At present the whole field of taxation is thoroughly covered with such combination indices and digests, and other fields are being opened. As many as one hundred individual services are offered by one publisher alone; each covers one legal area completely. Statutes, executive

orders, court decisions, administrative regulations, agency interpretations and memoranda are interwoven with editorial comment and explanations. Special printing devices, such as arrows to guide the eye, boxes, and copious cross-references are employed to get authentic related material close together and available to the reader.

Tabs and dividers in large loose-leaf binders of all of the services mark divisions and guides to instructions for use. The basic compilations usually follow a standard decimal system so that similar material is similarly numbered in all similar indices. Contents are numbered by paragraphs, not page. Indices to the basic compilation, new matter and other indices make for quick reference. Supplemental indices tie new material to old. Special helps such as the Commerce Clearing House (cite CCH) "Rapid Finder Index" or Prentice-Hall (cite P-H) Answer Finder are available to help locate the source for a particular problem.[1]

Revision is perpetual with new pages being sent for old with changes in statutes, regulations or court rulings. As citators of administrative rulings these services are seldom equalled.

The three-step search method starts with an appropriate word or phrase in the main index, where reference will be made to a paragraph number leading to the general rule and further citations. Finally the same number is used in the new matter section to locate later rules and decisions. An analytical approach through tables of contents either of the whole service or parts follows the topical approach of

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[1]Since each of these companies publish so many sets of reference sets, many of which cover closely related fields it is generally necessary to cite the exact name of the service when the circumstances arise. Inasmuch as they are secondary sources such an occasion is infrequent. On the other hand, the materials are so increasingly usable that it is often convenient to allude to the services in general. Advertising materials furnish not only the lists of publications but indices and guides to their use.

other reference books from major outline to subdivision. "Pilot Charts" of Prentice-Hall services and "Correlators" of CCH services furnish special clues to topical analysis. "Finding lists" are sometimes provided to lead from an official citation to the service paragraph numbers; these lists and tables of cases, when provided, are plainly marked and follow the pattern of other citators.

Commerce Clearing House, Inc., and Prentice-Hall Publishing Company issue hundreds of separate services covering completely the field of business law, including legislative services for each state and the Federal government. Typical indices are Federal Income Tax, Corporation Law, Legal Periodicals, Insurance, Common Carriers, Labor Regulations, Federal Rules Digest, Congressional Index, etc. Doings of courts, legislative bodies, and administrative agencies are covered in special indices devoted to weekly calenders, pending matters or similar activities of limited special interest.

Federal Rules Service Findex[1] is a weekly news service giving the text of all decisions construing federal rules since the Civil Procedure Act of 1938. A Federal Rules Digest[2] summarizes the material. Pike and Fisher's Administrative Law[3] annotates the Federal Administrative Procedure Act in detail, section by section.[4]

Textbooks, Hornbooks, Commentaries

Occasionally a scholar, by assembling and analyzing all of the cases and lore on a given principle of law, may be able to produce a

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[1] Federal Rules Service Findex. Chicago: Callaghan and Company, 1939-

[2] Federal Rules Digest. Chicago: Callaghan and Co., 1939-

[3] Pike, James Albert, and Fisher, Harry Gold. Administrative Law. Albany, New York: Pike and Fisher 1941-48, 5 v.; 1952, 3 v. cum.

[4] See Administrative Law supra, Chapter IV.

work accepted almost everywhere as the best available statement of that phase of law. It may be an investigation of a comparatively obscure legal matter, as witness Griswold on Spendthrift Trusts,[1] or a monumental work like Wigmore on Evidence.[2] Such a work is called a Textbook or Hornbook, whether or not it is usable for the instruction of students as are volumes similarly titled in other fields of literature.

As Price and Bitner[3] note, the use of these books forms a sort of paradox. They are often the point of beginning for a student in investigating a certain question at law, but have no authority in themselves. They may not be quoted as law, since they are not a part of the chain of decisions and legislation. In fact, such works may be quoted as persuasive of what the law really is, only with extreme caution. They are secondary sources; commentaries about the law, not statements of law. They are available on many aspects of law and are sometimes the only practical method for the student to trace such a matter as the early history of a legal concept, contrasting philosophies of law, and modes of applying legal principles. Where they are cited in judicial opinions it is quite often because the language used in a treatise is familiar or because it expresses thoroughly the exact thought a court wishes to transmit. Beginners should quote such books with extreme caution and only as evidence of expression about the law.

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[1]Griswold, Erwin N. Spendthrift Trusts, Second Edition. Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1947.

[2]Wigmore, John H. Evidence in Trials at Common Law, 3rd. ed. Boston: Little, Brown and Co., 1940, 10 v.

[3]Price, Miles O., and Bitner, Harry. Effective Legal Research, supra, p. 36.

Some of the better known treatises are Holdworth's thirteen-volume, A History of English Law,[1] Radin's Handbook of Anglo-American Legal History,[2] Pound's Social Control Through Law,[3] Austin's The Austinian Theory of Law,[4] Blackstone's Commentary on the Laws of England, Kent's Commentary on American Law,[5] Coke on Littleton's Tenures,[6] Powell's Real Property,[7] Prosser on Torts,[8] Williston on Contracts.[9]

Major commentaries are increasingly uncommon because the law has become too complex for such analysis. They are being replaced by the legal encyclopedias and their companion digests and annotated reports. Similar commentaries on less comprehensive fields are increasing Many of these are first published in legal periodicals, which are also a chief source of bibliography and research leads.

Also comparatively small textbooks are available in a variety of fields giving up-to-date information sufficient for understanding

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[1]Holdworth, William S. History of English Law. Boston, Mass.: Little, Brown and Co., 1938-50, 13 v.

[2]Radin, Max. Handbook of Anglo-American Legal History. St. Pau Minn.: The West Publishing Company, 1936, 612 p.

[3]Pound, Roscoe. Social Control Through Law. New Haven: Yale University Press, 1928.

[4]Austin, John. The Austinian Theory of Law. London: Murray, 1931.

[5]Kent, James. Commentaries on American Law. New York: O. Halstead, 1826-30, 4 v.

[6]Coke, Sir Edward. The First Part of the Institutes of the Laws of England; or a Commentarie. Upon Littleton. London: Printed for the Societies of Stationers, 1628.

[7]Powell, Richard B. Law of Real Property. Albany, New York: Matthew Bender and Co., 1949-58, 6 v.

[8]Prosser, William L. Torts, 2nd ed., St. Paul: West, 1955.

[9]Selections from Williston's Treatise on the Law of Contracts. Rev. ed. Mt. Kisco, N. Y.: Baker, Voochis and Co., 1938.

of the beginning student. Typical of the fields covered are elementary law, pleading, contracts, municipal corporations, bailment, evidence, damages, bankruptcy, torts, mortgages, principal and agent insurance, international law, etc. Edwards' The Courts and the Public Schools[1] is probably the best known hornbook on public education.

Students' Books: The small treatises are often used as instructional additions for teaching. Even more common are simple case books giving the student some instruction in legal research, an introduction to the history and development of law, and selected cases to illustrate the various points to be taught. The school law textbooks of Hamilton and Mort,[2] or Remmlein,[3] are illustrative.

Cram and review books for bar examinations are also used by students but their value is generally limited to a specific purpose and specific jurisdiction for which they are prepared.

Since most of the literature is addressed to practitioners rather than students, to professionals rather than laymen, the endowed foundations have frequently been called upon to subsidize books which are needed but have such limited appeal that commercial concerns cannot afford the research to produce them. Examples are Abbott's The Child

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[1]Edwards, Newton. The Courts and the Public Schools. Chicago: University of Chicago Press, 1955.

[2]Hamilton, Robert Rolla, and Mort, Paul R. The Law and Public Education. Chicago: The Foundation Press Inc., 1941.

[3]Remmlein, Madaline Kinter. School Law. New York: McGraw-Hill, 1950.

and the State,[1] Mangum's Legal Status of the Negro,[2] and Rabel's The Conflict of Laws.[3]

Restatements of Law: Under the sponsorship of the legal profession generally, a foundation grant was obtained for the employment of an expert corps of university law professors, eminent practitioners, and jurists to compile complete statements of existing law as it is determined to be by such an eminent panel after the examination of all available literature. For example, such a panel of experts worked nine years to produce the first Restatement.[4] The American Law Institute Publishers, the agency formed for the purpose, by 1948 had produced such Restatements for Agency, Conflict of Laws, Contracts, Evidence, Judgments, Criminal Procedure, Property, Restitution, Security, Torts, and Trusts. They are kept up-to-date by supplements. In addition, there are state annotations, indices for each Restatement, a General Index and a glossary of definitions.

There have been countless citations and law review comments on the Restatements; by the end of 1948 more than 15,000 had been tabulated. The Restatements differ from treatises in that they cite no authorities,

[1]Abbott, Grace. The Child and the State. Chicago: University of Chicago Press, 1947, 2 v.

[2]Mangum, Charles S. The Legal Status of the Negro. Chapel Hill: University of North Carolina, 1940.

[3]Rabel, Ernst. The Conflict of Laws. Ann Arbor, Michigan: University of Michigan Press, 1945-50, 3 v.

[4]American Law Institute, Glossary of Words and Phrases Defined in The Restatement. History of the American Law Institute and the First Restatement of the Law. (In Restatement in the Courts, permanent ed.) St. Paul, Minn.: Law Institute Publishers, 1945. Supplements 1948, 1953, 1958.

state only a "best" rule; they differ from Uniform Laws[1] in that they state not the law as the Institute believe it should be, but the law as it is. They are replete with commentaries and illustrations of principles. They are more likely to be cited by courts than are treatises.

Uniform Laws: About the turn of the century a Conference of Commissioners on Uniform State Laws was established to try to stem the growing disparities in law from state to state by proposing model codes to replace the patchwork statutes and diverse common law traditions of the various jurisdictions. During the years many such Uniform Acts have been proposed and enacted with various local modifications by legislatures. An Annotated Edition of the laws so proposed is maintained by the Commission and published in the annual handbook of the Conference. Uniform Laws may be Shepardized by their titles through the National Reporter System, Tables of "Statutes Construed." Adopted versions are, of course, carried by the regular vehicles and indices. Trade associations also publish (often in looseleaf form) compilations of laws applicable to particular lines of business. The Council of State Governments reports regularly in its monthly magazine State Government[2] the adoption of Uniform and Model State laws or the codification of state laws. Biennially, such material is enumerated in its Book of the States.[3]

The Uniform Laws Annotated, published by Edward Thompson Company in 15 volumes with paper supplements gives the complete list of uniform

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[1]Brooklyn, New York: Edward Thompson Company: The Uniform Laws, Annotated, 15v, Annual Supplements.

[2]Council of State Government, State Government monthly, 1927- Chicago: The Council.

[3]Chicago: The Council, 1935-, 12 v. (1959)

and model laws promulgated with the endorsement of the American Bar Association. (AM. B. A.)

Dictionaries

There is a vast range in legal dictionaries. Some are case encyclopedias of the law and a number are semi-encyclopedic with verbatim citations to authority and special sections defining maxims, abbreviations, and providing a variety of tables. A words-and-phrases type of dictionary gives the exact words of judicial opinions which have construed various terms. Some of these are so extensive as to amount to a complete digest of judicial definitions.[1] There are many varieties of auxiliary dictionaries giving special interest definitions demanded by special phases of the law. Examples are Casselmen's Labor Dictionary,[2] Crew's A Dictionary of Medico-Legal Terms,[3] Tuson's Vocabularies of International and Maritime Law and Insurance,[4] or any of the many dictionaries of European law.

The most common type of dictionary is the plain glossary. These are simple difinitions without illustrations or citations. Not too common in major law libraries because of their simplicity, they are nevertheless a valuable legal tool for beginners. In fact, the glossaries,

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[1]Cf. West Publishing Company Words and Phrases supra, Chapter V; Peter Allsop, Ed., Strouds Judicial Dictionary of Words and Phrases, London: Sweet and Maxwell, 1953, 4 v.

[2]Casselman, Paul H., Labor Dictionary, New York: New York Philosophical Library, 1949.

[3]Crew, Albert, A Dictionary of Medico-Legal Terms, London: Isaac Pitman Co., 1937.

[4]Tuson, E. W. A., The British Merchants and Master Mariner's Practical Guide, London: Richard Griffin, 1858.

or indices of legal textbooks for laymen, often provide adequate definitions for beginners. An example is Remmlein's School Law.[1]

Finally, it should be remembered that virtually all legal encyclopedias serve a definite dictionary function. Most of them will have tables of words and phrases, and cases citing authority for accepted definitions.

In addition to the other functions of legal dictionaries, most of them carry a variety of additional information such as tables of abbreviations, statutes of limitation, mortality and interest rate tables, and the like. The best known of all dictionaries is Bouvier. This classic is now published in the eighth edition of the third revision, edited by Francie Rawlè.[2] Almost as well known are Ballentine's Pronouncing Dictionary, Ballentine's College Law Dictionary,[3] Black's Law Dictionary,[4] and Shumaker's Cyclopedia.[5]

Some of the loose-leaf services are usable as dictionaries. For example, Prentice-Hall's Collective Bargaining Practice service, and the CCH Labor Law Reporter contain definitions of technical terms employed in collective bargaining.[6]

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[1]Op. cit. /Remmlein, Madeline Kinter, New York: McGraw-Hill, 1950/.

[2]Bouvier's Law Dictionary and Case Encyclopedia, Kansas City, Missouri: Vernon Law Book Company, 3v., 1924.

[3]Ballentine, James A., Law Dictionary with Pronunciations, Rochester, New York: Lawyers' Cooperative Publishing Company, 1930.

[4]Black, Henry Campbell, Second Edition, St. Paul, Minnesota: West Publishing Company, 1910.

[5]Shumaker, Walter A., Cyclopedia, Law Dictionary, Chicago: Callahan, 1912.

[6]For a complete list of British and American law dictionaries, see Price and Bitner, pages 216 to 224 and the citations therein.

Legal Periodicals

Law schools, bar associations, and a number of scholarly societies publish periodicals which carry comments about law, historical treatments, expositions of problems, analyses of trends, or arguments as to needed changes. These are, of course, secondary authority of little weight in formal court procedure but often of great weight to the scholar. A rarity is the occasional use of a legal newspaper as the official organ for a court, as the New York Law Journal.[1] Somewhat more common is a legal periodical similar to a newspaper devoted to court dockets, reports, statements concerning pending cases, and advertising. The United States Law Week[2] is an example.

Access to this literature may be had through one of the digests which serve the dual purpose of condensing legal periodicals and indexing them. Examples are the Commerce Clearing House's Legal Periodical Digest[3] (1928 to date) or the Law Review Digest,[4] successor to Current Legal Thought.[5]

The most commonly used indices to legal periodicals are the Jones-Chipman Index to Legal Periodical Literature[6] and its successor, the

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[1]New York: March 26, 1888 to date.

[2]Bureau of National Affairs, Incorporated, United States Law Week, September 5, 1933 to date. Washington, D. C. (Supercedes the U. S. Weekly Law Journal).

[3]Chicago: 1928 to date.N (loose leaf service)

[4]Law Review Digest, Boonton, New Jersey: Kimball-Clark Publishing Company, November, 1950 to date.

[5]Current Legal Thought, New York: Current Legal Thought, Incorporated, 1935-1948, 14 volumes.

[6]Jones-Chipman (Various imprints) 1939 edition, Los Angeles, California: Parker and Baird Company.

Index to Legal Periodicals,[1] published by the H. W. Wilson Company for the American Association of Law Libraries. By permission of the West Publishing Company, this index uses the American Digest System of classification covering articles, notes, comments and even book reviews. It accumulates annually and of recent years tri-annually.

The Commerce Clearing House's Legal Periodical Index[2] consolidates an early edition; some of the law reviews themselves regularly publish bound indices covering a number of years; and, recently, the various state editions of Shepard's Citations cover state law journals and cite comments to particular cases.

In addition to their value for comments about legal developments, the law journals are one of the best sources of legal bibliography. By tracing problems through the journals a sort of chain reaction to citations and cross citations may be obtained, as well as arguments and counter arguments regarding fine points of legal interpretation.

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[1]New York: H. W. Wilson Co., 1909--.

[2]New York: The Commerce Clearing House, Inc., 1928.

CHAPTER VII

ENGLISH AND CANADIAN LAW MATERIALS

Except in the case of the Civil Law of Louisiana, all of the states have an act governing the extent of the adoption of the English Common Law. English statutes and decisions prior to the colonization are generally considered pertinent to American legal tradition; English and Empire decisions subsequent to that date are given weight by American courts in disputed matters.

English Reports date back to about 1283. It is problematic who recorded these early cases. From 1292 to 1535 the reports are available in yearbooks. Up to about 1765 there were many reports published, all unofficial. Except for the very early citations by year, reference is given by name of the reporter. For complete lists of the reporters a student should consult one of the standard reference works on English citations.[1]

The recent period began in the latter part of the last century: since that time, citation is by year, volume, court, and date, all abbreviated. The recent volumes are called Law Reports.

The English reports differ from the American volumes in several features. First they are not completely official, as the publication of

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[1]Cf. Maxwell, W. Harold and Brown, C. R. Complete List of British and Colonial Law Reports and Legal Periodicals. 3rd ed., London: Maxwell and Sweet, 1937.

no series is under direct control of the courts. However, the Law Reports are approved by the judges prior to publication and published by the Incorporated Council of Law Reporting which includes representatives of the British counterpart of the American Bar Association. Second the British Reports are selective; only cases considered to have permanent value are published. Third, the original opinions are delivered orally and separately by the English judges.

During the two-century interval from the end of the yearbooks until the modern period began with Burrows about 1765 there were over one hundred reporters of one or more volumes sporadically published. From 1765 until 1865 regular reports were published following a style somewhat similar to the present practice. The current series started with the organization of the Incorporated Council in 1865 and continues to date. In addition the same publishers have issued the English Reports, Full Reprint,[1] a complete collection of the original reports consolidated into 176 volumes. This series is the most commonly used and is customarily cited along with the original reference. Star paging makes it possible to follow either citation. For most uses in this country the Reprints are adequate. The original eleven units of the Law Reports was reduced to six in 1876, and to four in 1881, reflecting court reforms. There is one series for each major court, Chancery, Probate, Queen's Bench, and Appeal Cases (Ch.; P.: Q. B.: and A. C.)

The volume number cited is for the year of the citation and not for the series. For example, the citation Woods v. Wise (1955), 2 Q. B. 29

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[1]Incorporated Council of Law Reporting, English Reports, Full Reprint (covering years 1378-1865, about 100,000 cases, 274 reporters rearranged by courts) Edinburgh: W. Green 1900-1930, 176 v.

refers to a case on page 29 in the second volume of the Queen's Bench Reports for 1955. If there is no number, then only one volume was published that year. Various subordinate courts or specialized courts are represented in a variety of so-called "proprietary reports." The most widely used are the All England Reports[1] dating from 1936. Butterworth of London publishes a cumulative index to these reports.[2]

English Statutes are published by the government as slip laws, session laws, and compilations. There has never been a comprehensive codification or compilation by Parliament itself; hence, compilations are only prima facie law. The government compilation called Statutes Revised[3] contains the enactments considered to be in force as of 1948, supplemented by session laws called General Public Statutes.[4] Reference to both sets may be obtained from the cumulative Index to Statutes in Force,[5] published annually.

A more widely known work is the privately published Halsbury's Statutes of England.[6] Slip laws are published periodically; there is an annual continuation volume and a cumulative supplement.

Statutes are cited by the year of the reign of the monarch. Until late in the 18th Century the ecclesiastical year was followed. Some

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[1]All England Law Reports, 1936- London: Butterworth.

[2]J. T. Edgerly, Ed., All England Law Reports, Permanent Index 1936-58, London: Butterworth.

[3]1236-1920, 2nd ed., London: H. M. Stationers, 1928-29, 4v, annual supplements, ante.

[4]London: H. M. Stationers, 1921-.

[5]London: Her Majesty's Stationers, 1956, 2v; formerly Chronological Table of the Statutes, 1949, 2v.

[6]London: Butterworth, 1947; 2nd ed., 1954-55 34v, supplements.

confusion may be avoided if one consults the tables of regnal years and reporters to be found in authoritative works. Most British and Canadian reference materials will carry such tables.

There are several considerations which make it essential to consult the tables. Prior to 1752 the legal year was the same as the ecclesiastical year, running from March 25 to March 25, rather than following the calendar year as do historical accounts. Thus, happenings in the first twelve weeks of the year might be assigned to the prior year in legal accounts. Events during the reign of Edward III which began in January, 1327, are sometimes attributed to 1326.

Also the intervals between the conclusion of the reign of one sovereign and the beginning of the reign of the next might be of some duration, but in the formal assignment of legal documents the whole interval is attributed to the reign of the successor. The most notable instance, of course, is the interregnum prior to Charles II. This twelve-year period is customarily assigned to the reign of Charles II.[1]

Official English statutes are published under the title The Statutes Revised,[2] covering years 1235 to 1948 which are printed in an unclassified chronological order omitting certain local or private acts. Extensive notes are included. In addition to subject and chronological indices for each volume, two state publications, Index to Statutes in Force,[3]

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[1]W. Harold Maxwell and C. R. Brown, A Complete List of British and Colonial Law Reports and Legal Periodicals, 3rd Ed., Toronto: Carswell (1937) Supplement (1946).

[2]Great Britain, The Statutes Revised, 3rd Ed., London: H. M. Stationery Office, 1950, 32 v. (plus church measures).

[3]Op. cit., p 83.

and Chronological Table of Statutes[1] give access to the material. The series is kept up to date by three separate supplements: a slip law service published five times a year; a continuation volume cumulating each year's slip laws and indexing them to the main set; and the Cumulative Supplement,[2] an annual citator keyed by paragraph number to the main set, and bringing the annotations to date.

The key numbering used in most British reference works does not correspond to the American system but is instead a specific index for each case or section, thus Shepardizing the material as it is issued. Scotch statutes are issued in five series, all but the discontinued Blackwood edition, by the Green Company of Edinborough. The counterpart of the Code of Federal Regulations is the British Statutory Rules and Orders,[3] an official publication. British treaties and international agreements are indexed monthly and annually as Parliamentary Papers or State Papers.[4] The final issue of the Treaty Series[5] for each year contains an index and the next to last a list of ratifications, withdrawals, expirations, etc., for the current year. There are several other sources of British statutory, administrative, and treaty law.

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[1] Op. cit., p 83

[2] London: H. M. Stationers, 1948- Index to Statutes in Force, Cumulative Supplement (Annual).

[3] Great Britain, British Statutory Rules and Orders and Statutory Instruments Revised. London: H. M. Stationery Office, 1948, annual supplements.

[4] The permanent compilation is combined with Hertslet's Commercial Treaties in British and Foreign State Papers (London: H. M. Stationery Office), 1812 to date, approximately 140 V. (Herslet since 1827)

[5] London: H. M. Stationery Office, 1892 to date, issued as command papers, bound annually.

The most widely known digest, corresponding to the American Digest System, is probably Mews' Digest of English Case Law, Second Edition.[1] This is a selective digest; a more complete digest is the English and Empire Digest[2] covering the Dominions and summarizing more cases than does Mews'. It is doubtful if any digest completely covers the British and Dominion reports. Both digests have one volume of annual supplements devoted to the work done by the Shepard System in this country. Classification in the digests is largely by the subclassification of main topics, and search can be made by a descriptive word index, topic analysis, tables of cases, citator tables, or through the encyclopedia system.

The most widely known encyclopedia of English law is Halsbury's Laws of England;[3] not to be confused with Halsbury's Statutes, this series is a complete restatement of English Law. In makeup it is quite similar to the American encyclopedias except that more attention is given to statutes. Cases are cross-referenced to the English and Empire Digest and to Halsbury's Statutes of England. In addition there are special encyclopedia of forms and precedents, special Scottish and Dominion legal styles.

In addition to the other search books, since 1947 there is an ambitious publication entitled Current Law and Current Law Yearbook[4] published by Sweet and Maxwell which attempts its ambitious slogan to summarize monthly and cumulate annually "All the Law from Every Source."

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[1] Digest of English Case Law (Mews) London: Sweet and Maxwell, 1957, 24 v. supp.

[2] English and Empire Digest (Chitty) London: Butterworth, 49 v. ann. supp.

[3] Laws of England, 3rd Ed., London: Butterworth, 1956, 42 v.

[4] Current Law (London: Sweet and Maxwell, Stevens and Sons, 1897), Annual Yearbooks, Citator, 1947-57, 2 v.; Consolidations 1953, 1958.

In addition to digesting and indexing all current cases and statutes, this series serves as an index to British and Dominion legal periodicals and treatises of all types. Since the work serves as a citator to earlier materials, it is probably the most comprehensive source of current British and Empire law available.

Canadian legal material can be approached through the English and Empire series and through some of the American reference books. In addition the All Canada Digest[1] (1910-1934) and the centennial issues thereafter offer an approach quite similar to the American Digest service. The Canadian Abridgement System is a complete digest starting with the Canadian Abridgement[2] (C.A.) (1935-1946) and continuing thereafter with decennial Consolidations (CAC). Canadian current law has a monthly digest service cumulating into bound volumes; the Dominion Report Service[3] is a loose-leaf digest unique to Canada. It is issued in two editions, an Ontario section covering Ontario and the Eastern Provinces as well as the higher courts; and a Western Edition[4] combining decisions in the Western Provinces with those of the higher courts. The encyclopedia and digests carry citators and in addition there are statute citators and digest citators. Loose-leaf services are similar to those in this country.

Law reports similar to those published in this country cover all of the Canadian Provinces. In addition there is a growing system of

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[1]Toronto, Canada: Canada Law Book Company 1935, 4 v.; First Decennial Supplement 1937-44, 1946, 2 v.; Consolidated Supplement 1935-51, 1956, 2 v.; annual supplements.

[2]Toronto: Burroughs, 1935-1946, 35 v., First Decennial Consolidation, 1946-56.

[3]Toronto: CCH, Canadian Lmtd. 1927-, 6 v.

[4]Id., 1956-

combined reporters similar to the National Reporter system in this country. The Dominion Law Reports[1] (cite D. L. R.) are reputed to carry all "reportable Canadian cases" from 1912 to date.

Law reports are issued in several sets covering different courts. The provincial courts have been reported in modern times by the Maritime Province Reports[2] covering cases from New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland, and the Western Weekly Reports[3] series reporting cases from Alberta, Saskatchewan, Manitoba and British Columbia. Both also report from the higher courts (Privy Council, Supreme Court, and Exchequer Court).

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[1]Toronto, Garrett, 1912-22, 70 v.; 1923 to date, approx. 160 v.

[2]Toronto, Garrett, 1929-, 44 v.

[3]Calgary, Alberta, Canada, 1911-, 1950, 108 v.; 1951-, 21 v.

CHAPTER VIII

CITATION FORMS

An attempt has been made to note the forms of citation used with the various types of books as they have been discussed. Some understanding of citations, especially abbreviations, is needed to use digests, legal indices, or citators. A few additional comments are perhaps in order.

There are various manuals of style used in formal writing. Accepted form differs from publisher to publisher and varies for different audiences, disciplines, and schools. A number of graduate schools follow the forms recommended by Turabian[1] for dissertation writing. The first step for any student in preparing written work is to check the manual of style prescribed for the particular school and the requirements of the several disciplines. Where there are many omissions as to required forms in citing legal literature, as is generally true, further guidance may be needed. This is supplied in the more technical legal literature.

Demands of Legal Style

The vagaries of legal style developed as did other traditions of law. Logic which depends upon precedent and analogy is expressed with frequent reference to supporting documents. A lawyer can rarely write a business letter without some documentary reference. To save time and space legal literature makes abundant use of abbreviations in

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[1]Turabian, Kate L., A Manual for Writers of Dissertations, Chicago: The University of Chicago Press, 1957.

citations and repeats as little as possible. What at first may seem a casual informality or complete lack of scholarly finish upon examination will be found to be simply an attempt to make the footnotes serve their real purpose: to lead the reader to the material cited quickly.

Counterbalancing this complete utilitarianism is the fact that court procedures date back to the formalities of medieval heraldry. The resultant mixtures of practicality and formality gives legal literature a spice all of its own. Moreover, lawyers know, sometimes from bitter experience, that every new word added to a legal document is a potential lawsuit if some perverse soul uses the word with a meaning other than that intended. To be safe he uses the trite and true. At the other extreme, surplus language is acceptable but an omission may be fatal; again, to be safe, adjective is sometimes piled on adjective to be certain every shade of meaning is covered. A person guilty of an indiscretion may find to his astonishment that his conduct is described as unlawful, arbitrary, wanton, malicious, negligent, . . . !

Exact preferences as to rules of formal writing vary with jurisdictions; the Supreme Court has certain preferences and the several state courts have different requirements, none of which are quite the same as those followed in authoritative legal journals. Most reference books and textbooks will carry after the table of contents or in the appendix an explanation of abbreviations used and citation forms followed. Printed rules of the more important courts will contain guides for the preparation of briefs. Most publishing houses have an accepted manual of style which is available to those needing it. This manual can only give attention to the more general rules.

There are three basic authorities to correct procedure in legal citations. The United States Government Printing Office Manual of Style

(1945) is used as the authority for governmental publications which include, of course, a variety of legal documents. This is probably the most widely known authority of its type.

A somewhat more exacting manual is the latest edition of what was the pioneer citation manual, A Uniform System of Citation, Form of Citation and Abbreviations,[1] a joint project of the law periodicals of Harvard, Yale, Columbia, and Pennsylvania Universities. Other law journals, such as that of Michigan University, publish manuals. The accepted arbiter in this field for the publishing trade in general is a work by the renowned librarian of the Columbia Law School, Miles O. Price. Popularly known as the Price Manual,[2] it gives authoritative and convenient access to acceptable style in formal legal writing. A few of the more common practices are noted.

When part of a citation is given in the text it is customary to note only the omitted portions of the completed citation in the footnotes. This follows logically from the basic rule of giving the reader access to the original citation with as little additional writing as possible. There is one notable exception to the practice of confining footnotes to the briefest possible statement: wherever pertinent the year of a citation is given. Quite often this date alone will determine whether or not the reader wishes to refer to the original document. A court interpretation of the tort liability of a governmental agency

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[1]A Uniform System of Citations, Form of Citation and Abbreviations, 8th Edition. A joint project of the law periodicals of Harvard, Yale, Columbia and Pennsylvania Universities. New York: Columbia University Press, 1955.

[2]Price, Miles O., A Practical Manual of Legal Citations. New York: Oceana Publications, 1950.

dated 1857 would rarely warrant further investigation; one dated in 1957 would be relevant to a current problem. An Illinois statute controlling community type school districts, dated prior to the 1940's, would in all probability shed little light on a contemporary issue or an unresolved issue, inasmuch as virtually all Illinois school law has been written since 1945 and the statutes covering community districts extensively so.

In analytical legal writing, an elaborate system of signals is often used to denote the degree of authority given a citation. A "holding in agreement" with the paragraph and argument under discussion is called a "square holding" and there is no signal. A simple citation means that the authority referred to upholds the view in discussion. A "square holding" against the position taken is indicated by "contra" often seen in a succession of citations immediately following the word "contra." In this instance, the authority cited after the signal word holds exactly to the contrary, under nearly identical circumstances. One substantially in point is cited with the word "accord" followed by a comma and the citation. An expression of opinion or dictum is indicated by the word "see" followed by the citation and separated from it by no punctuation. Opinion to the contrary is indicated by a similar citation with the words "but see." "Cf" and "but cf" are used in the same manner to indicate dictum deriving from differing facts or clearly distinguishable from the citation under discussion but having some bearing. The abbreviation "e.g." is used where only one of many available citations is used and "see e.g." for the same citation where the evidence is of the order of dictum.

Such signals apply to all of the citations following until the end of the sentence, or a new signal. Where a case has been appealed or reported in several volumes, a complete set of references is given in the one citation, so that the reader may not be misled.

Typography

Italics are used for complete books, but generally not for pamphlets and quite often not for portions of a multi-volume work. The volume number is not specified in a multi-volume citation if the citation is by section or topic number. Where the citation is by volume, the most common method is that used in citing case reports, the number of the volume followed by the name of the work and the page, with the date and edition, if necessary, added as a parenthetical item.

Only a few foreign legal phrases are italicized. Such words as the following have been taken over into the language: "ad valorem," "pro rata," "ultra vires," "mandamus," "laissez faire," etc. The following are still italicized: "ex parte," "ex rel," "ibid," "id," "in re," "op cit," "sic," "supra," etc. In case of doubt a student would be well advised to consult some standard authority.

A number of law journals and some courts have adopted elaborate use of italics, bold-faced type, and large and small capitals as devices to differentiate between different orders of authority. Such customs add to the system of "signals" which work for rapid reading and appraisal of documents. Since legal documents ordinarily have an index of authorities cited which includes a table of cases (unless the latter is listed separately), a general index and a table of contents, some citations are very brief.

A common practice is that of shortening footnotes by omitting from them all but the last name of the author and listing the complete citation in the bibliographical section of the index. Nevertheless the need to conserve time and space is matched by the need of rapid readers for a quick evaluation of the weight of evidence as the exposition develops. The basic citation elements are given if there is any doubt. The device "op cit." is rarely used in legal writing. "Ibid" and "id"

are used as elsewhere except where the citation is not a different page with repetition; in that case, the customary footnote is, "Id at 115."

Where a citation has been given a number of times it can be repeated thereafter by a short title without further reference, within a close intervening space, so long as the meaning is clear. Quite frequently the word "supra" will be added to the shortening as an appositive.

Alphabetizing: Law manuscripts have indices, tables and lists of various types. Practice varies as to alphabetizing. Increasingly for such matters as briefs and appeal records alphabetizing will be letter by letter rather than word by word, with only key words being used in the process. For example, a book such as Davies and Rooney's Research in Illinois Law[1] will be found in some lists alphabetized in the form of "Illinois Law, Research In." At the other extreme it will be found in some author lists in the "B's," inasmuch as the major author's first name begins with that letter.

Abbreviations: Some matters of style such as punctuation and abbreviation are changing under the same pressures which have brought about drastic revision in the accepted rules of punctuation within the last 25 years. In ordinary legal practice, printing is employed in extraordinary volume. The rules of most courts of record require appeal documents, briefs and other formal matters to be submitted in printed form. The elimination of a comma in a type of citation occurring frequently may reduce court costs in a particular case materially.

Moreover, there is an additional pressure from the publishers of mass legal records. To supply the needs for revised copies of the various

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[1]Davies, Bernita J., and Rooney, Francis J., Research in Illinois Law. New York: Oceana Publications, 1954.

compilations of state statutes or even the pocket parts toward the close of many state legislative years requires meticulous work on the part of a large especially trained staff. Niceties give way to practicalities under the pressure of time. A constant source of style change is the newspaper, with its growing brood of legal publications. Under all of these pressures, then, any deviation in punctuation or abbreviation which can be achieved at no great risk of ambiguity will quickly gain favor.

Furthermore, the development of many of the forms commonly used for such matters as abbreviations has been such that different meanings for the same abbreviations have grown up in different parts of the English speaking world. Thus the student will find the capital letter "A" used as an abbreviation for the Atlantic Reporter, Alabama Reports, American Reports, and Alaska Reports. At the other extreme he may find American Law Reports abbreviated "ALR," "AA.L. Rep.," or "A.L. Rept." The abbreviation "App." may mean appellate, appendix, or appeal. As a general rule the meaning will be clear from the context. Also as a general rule major reference books will have a list of the abbreviations conveniently located so that the student may determine the meaning of abbreviations. It goes without saying that for specific purposes the exact manual of style applicable in the circumstances should be used, i.e., United States Government Manual of Style for governmental publications; a student publication manual for student publications, etc. A comprehensive list of abbreviations to be found in authoritative journals is given in Price and Bitner, pages 511 to 620.

When an abbreviation is used so often that the letters become the common designation for the book or agency, as in the case of the UN, practice permits the omission of the period after each letter. The list

is constantly growing as more and more agencies become subjects for newspaper discussion. Consequently a definitive list acceptable everywhere is not likely to exist. Among the abbreviations common in legal literature which omit the period, the following are illustrative:

CA Court of Appeals

BLS Bureau of Labor Standards

FHA Federal Housing Authority

CCH Commerce Clearing House

FCC Federal Communications Commission

UN United Nations

ACA Administrator Civil Aeronautics

CGR Coast Guard Regulations

Statutory Material

Congressional Papers: Careful consideration of statutory material often includes the history of legislation from its beginnings. Since abbreviations are used, the conventions become important to avoid confusing such items as non-legislative resolutions and bills. In most states bills originating in the lower house are abbreviated H. B. followed by the number assigned at introduction; senate bills appear as S. B. 100. For the United States Congress comparable measures are indicated in footnotes as H. R. 2110 or S. 1450, differentiated from non-legislative resolutions which are abbreviated H. Res., and S. Res. Concurrent resolutions and joint resolutions are abbreviated as H. Con. Res.; S. Con. Res.; H. J. Res.; and S. J. Res. Complete citations might be

H. R. 40, 81st Cong., 2nd Sess. (1950) p. 5

S. 101, 79th Cong., 1st Sess. (1947) p. 3.

Repeating citations may carry as part of the first footnote, "hereinafter cited as: H. R. 40." A citation of a congressional hearing includes:

the title, volume or part number, committee, congress, session, page and date, abbreviated. General usage is to capitalize and abbreviate "Session," as "Sess." although the Government Printing Office uses the abbreviation uncapitalized; committee reports are cited with the abbreviation "Rept." to avoid confusion with resolutions and bills. Some law reviews abbreviate it "Rep." and place the pagination ahead of the parenthetical date without the abbreviation for page (p.). Congressional debates for early years are customarily cited by half-titles:

(1) The Debates and Proceedings in the Congress of the United States, the records for the years 1789-1824, are cited as 18 Annals of Congress, 1230 (1808);

(2) for the years 1824-1837, the complete title is Gales and Seatone's Register of Debates, cited as 11 Reg. Deb. 127 (1835);

(3) because of original errors in numbering the volumes, the Congressional Globe, the set of records for 1833-1873, is cited by Congress and session rather than volume as Cong. Globe, 40th Cong., 1st Sess.. (1867) p. 409;

(4) Since 1873, the record is in the familiar daily Congressional Record cited by page, date and form used. It is repaged when bound; for this reason, it should be cited by exact date for the daily edition, the bound edition by volume, page, and exact date for the record under discussion. The name of the edition is included in the parentheses with the date.

Congressional documents are cited in abbreviated form by letter; abbreviation for the house (H. or S.) document and its number, as No. 25; the congress and session, as 81st Cong., 1st Sess.,; date and page, as (1949) p. 133, in that order. A bulletin issued as a congressional document will be cited in the same way except that the title precedes the abbreviated citation.

Statutes: Cite statutes in chronological order, prospective law before statutes, session laws before compilations, official before unofficial, and statutes before cases interpreting them. Slip laws are cited until the Statutes at Large are published. Cite law number, date of approval, congress, session, chapter, bill number and title of the law, if any. In citing Statutes at Large, cite act, volume, chapter number, and date, as PL 150, 48 Stat. 1470 (1933).

Although at variance with governmental practice, most universities prefer the word "section" to be written out, with the first letter capitalized where it appears as the first word of a sentence and in references to a specific section. In casual references thereafter in the text do not capitalize the word. Use the symbol to indicate the section in footnotes unless at the beginning of the sentence, in which case it is written out.

Constitutions are cited by article, section, and clause. The word "constitution" is capitalized only when a proper name in text references. It is not abbreviated in the main text except in parenthetical references, but it is abbreviated in indices and in footnotes.

State session laws are ordinarily cited with the date in the middle as,

Ill. Laws 1947, chap. 23 Sec. 10, p. 5.

For a complete listing of the citations for state session laws and statutes, see page 19 of Price.[1]

Treaties are cited as Statutes at Large or as part of official Department of State publications. The component parts are: short title,

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[1]Price, Miles O., A Practical Manual of Standard Legal Citations, New York: Oceana Publications, 1950.

type of agreement, subject of agreement, countries, volume, page, date of signature, and date of publication, if citing a joint volume.

Case Material

The name of a case with the exception of the Anglicized Latin portions, such as "versus," are ordinarily italicized both in the text and in the footnotes. The exception extends to the "v." Cite official reports followed by unofficial reports as

47 Ill. 220, 13 N. E. 22

The official Supreme Court Reporter, Lawyer's Edition of the Supreme Court Reporter, and American Law Reports are cited in that order when any combination of them is used. Otherwise, there is a general tendency to cite matter in the order of any known hierarchy of authority. The name of the reporter is italicized in the text but not in the footnotes.

The words United States are always written out, except in the name of the Supreme Court Reports where the abbreviation "U. S." is used or where it is part of the name of a ship, as U. S. S. St. Claire. In the name of a railroad, the first word in the title is written out in full and the others are abbreviated, as "Chicago C. C. and St. L. R. R."

Where cases begin with Ex Parte, In re, use those terms except in alphabetizing. "Ex rel," in a case name is carried into the citation with a period but no comma after "rel." Corporate names beginning with an initial are so cited, but alphabetized under both the initial and the surname. Where the title of a firm contains both "Inc." and "Co." use only the latter. Where a case is appealed or reviewed by a higher tribunal, cite both reports, as

Roe v. Doe 320 Ill. App. 315, reversed sub. nom Doe v. Roe, 425 Ill. 12

The word "case" is ordinarily not capitalized unless it is part of the official title.

Legal newspapers are cited as are other periodical literature, except that the exact date is given in parentheses. This is also the practice with advance sheets or other reports where there is still time for appeal or other change. If there is any opportunity for confusion, the court should be identified in parentheses; several state reports cover more than one court.

The publications in Federal Cases are ordinarily cited with volume and page as with other reporters and in addition, the number, state, and date, since the cases are not consecutively numbered. It is impractical to use official citations in much of this series.

Other Legal Citations

Services such as one of the loose-leaf tax reporters are cited by title of the reporter, year, volume number, edition number and section or paragraph, if pertinent. If both a loose-leaf and a bound volume of an edition exist, one should indicate which is used by a bracketed statement. Custom has made some differences in the citation of well-known services; for example, Pike and Fischer's Federal Rules Service is cited by its name, volume, and section, as:

Doe v. Roe 11 Fed. Rules Serv. Sect. 12a41, cases 1 (1949);

but the service on Administrative Law of the same organization is cited as follows:

1 Pike and Fischer Ad. Law Sect. 35a3 (1940).

Treatises and periodicals are cited in the same manner as court decisions where possible, as

7 Mich. L. Rev. 109 (1918).

The name of the author and the article, of course, are included in the citation. Where such an article discusses a case, the date of the author's

work and also the date of the case should be given. Well-known treatises such as Prosser on Torts are cited by brief reference, as

Prosser, Torts 193 (1941).

However, most students writing for scholarly use other than by members of the legal profession are advised to use a more complete citation except perhaps for ancient documents.

Foreign Law: The publications of the debates of the English Parliament are available in several editions, the best known of which are commonly known as Hansard's, after the first publisher. There are so many different titles to the various series that it is impractical to cite any by actual name; consequently the one name is used for many of the earlier reports.

English session laws are cited by title (where pertinent), regnal year, chapter, date, section, and schedule, if any. Customary usage is for chapter to be abbreviated "c," section "s," and schedule "Sched." If there is no title add the date in parentheses.

The multiplicity of reporters in England prior to 1865, all cited by name make it advisable to indicate the court making a decision cited; since that time, the name of the reporter furnishes sufficient clue. American practice is to ignore the British bracketed dates (an imprint identification) and report the date of the case in parentheses at the end of the citation, except where these dates disagree in the various reports. There are no official reports in England. American practice is to cite Law Reports, since the establishment of that series and to use parallel citations prior to that date. The common source, however, is the reprint collection English Reports--Full Reprint; parallel citations are given with the head notes in this 176-volume collection.

Canadian citations are quite comparable to those of the United States, revised statutes being more commonly used. Other foreign references are documented quite differently, since codes and statutes are more important and decisions less weighty as evidence. Treatises, commentaries and textbooks are cited as in any carefully documented work. Scholarship is no respector of political boundaries. Periodicals likewise are cited according to generally prevailing practice, except that in parentheses immediately following the author's name is the name of the country. In other legal works the custom is to identify the country first, the type of law or authority cited, the date as accurately as is necessary, and the barest essentials to finding the quotation. The citation elements, then, for three types of authority are as follows:

Statutes: (1) Country, (2) the word "Law," (3) date effective, (4) official collection and number.

Codes: (1) Country, (2) Article and Section, (3) Code title, (4) Edition, if helpful.

Reports: (1) Country, (2) The word "Decision," (3) Court identification, (4) Date, (5) Docket Number, (6) Volume and Collection.

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